

## **EXHIBIT 3**

PAUL D'AURIA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 19-CV-4650

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RAFAEL FOX, PAUL D'AURIA, and JILL )  
SHWINER, )  
Plaintiffs, )  
v. )  
STARBUCKS CORPORATION d/b/a STARBUCKS )  
COFFEE COMPANY, )  
Defendants. )

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DEPOSITION OF PAUL D'AURIA

TAKEN REMOTELY BY VIDEO CONFERENCE

September 9, 2020

Reported by: Mary Ann Payonk

Job No. 183853

1 PAUL D'AURIA

2 say, let's call it a shelf life where they were  
3 good for a certain period of time to keep the  
4 pests under control?

5 A. It would depend on the product. The  
6 stores were getting serviced once a month at  
7 Starbucks' request. Some bait gels they say  
8 would last weeks depending on the environment  
9 of the store, humidity. Things like fly sticks  
10 would last probably longer because it's not a  
11 chemical. The fruit fly traps would probably  
12 only last as long as they were allowed to  
13 remain in the store. Most chemicals break  
14 down, so water or sunlight would degrade them.  
15 Dirt would degrade them.

16 Q. Okay. And other than communicating  
17 with the managers of the store by way of giving  
18 them a report, did you communicate with anyone  
19 else from Starbucks about your work, your  
20 evaluation?

21 A. Yeah, if there was a particularly bad  
22 problem, I would be in direct contact with --  
23 by email with the facilities managers of the  
24 corresponding stores.

25 Q. And who was the facility manager

1 PAUL D'AURIA

2 during the '13 to '18 period of time?

3 A. There were many. If you want me to  
4 name as many as I can, it was probably six or  
5 seven.

6 Q. Yes. Yeah, please do if you can.

7 A. There was Tom Nassiri (ph).  
8 Margaret -- I don't know if I pronounce her  
9 last name correctly. Her name was Kis or  
10 Margaret Kis, K-I-S. Neal Opalka. Keith  
11 Costello was a manager. Rich Letts. Alloy  
12 Vilabrera. Kim Healy. Noelle Perez. One man  
13 named Walter. I don't know if he was there in  
14 2013. I forgot his last name. Off the top of  
15 my head, that's all I can think of right now.

16 Q. Those were the facility managers that  
17 you can recall communicating with from '13 to  
18 '18?

19 A. Yes.

20 Q. Who would you -- okay, who provided  
21 those names to you to communicate with?

22 A. Usually Ms. Shwiner. We would  
23 include each other on our emails if there was a  
24 problem. So I would let AVP know what I found  
25 and I would let the specific facility manager

1 PAUL D'AURIA

2 know of a problem.

3 Q. And did you communicate with the  
4 facilities managers when there was a  
5 particularly difficult problem at the store?

6 A. Yes.

7 Q. And did they communicate back to you?

8 A. Sometimes.

9 Q. And was it your responsibility to  
10 bring to their attention problematic stores  
11 that had greater pest problems?

12 A. Yes, they would ask for us to keep in  
13 touch with them on bigger problems.

14 Q. And over the last five-year period  
15 that you worked with Starbucks, were the  
16 conditions of the stores pretty much the same  
17 during that period?

18 A. Yeah, pretty consistent, the  
19 conditions.

20 Q. Got it. And other than the store  
21 managers and the facilities managers, did you  
22 communicate with anybody else at Starbucks on  
23 an as-needed basis?

24 A. Sometimes the -- I guess his title  
25 would be the director of facilities for

1 PAUL D'AURIA

2 New York. Sometimes I would include them in  
3 the email.

4 Q. And do you recall their names?

5 A. From 2013 to 2018 there was Bill  
6 Miko, Stephen Gallant. There was an interim  
7 manager, but I don't remember his name. And  
8 the last was Keith Costello.

9 Q. Did you have keys and codes to access  
10 all the stores during that five-year period?

11 A. Yes.

12 Q. Anybody else that you worked with at  
13 Starbucks that you haven't mentioned?

14 A. Excuse me? Could you repeat that?

15 Q. I'm sorry?

16 A. Could you repeat that? I didn't hear  
17 you.

18 Q. Oh, sure. I'm sorry. Other than the  
19 individuals that you mentioned just now from  
20 Starbucks, was there anyone else that you  
21 communicated with who worked at Starbucks  
22 regarding your job?

23 A. No. Unless I saw a manager who was  
24 working late, it was usually those people.

25 Q. Okay, got it. Have you ever heard of

1 PAUL D'AURIA

2 a product called DDVP?

3 A. Yes, I have.

4 Q. And what's that short for?

5 A. The full name is Dichlorvos.

6 Q. I'm sorry, could you say that again?

7 A. It's Dichlorvos, D-I-C-H-L-O-R-V-O-S.

8 Q. And what is that product?

9 A. That product is an organophosphate  
10 that's used for insects.

11 Q. Organic phosphate?

12 A. Yes.

13 Q. And when did you first learn of that  
14 product?

15 A. I first learned of that product  
16 probably around 2004 or '05 in a book.

17 Q. And how did you learn of it?

18 A. In a book.

19 Q. When you say "in a book," what kind  
20 of -- what kind of book?

21 A. It was called the Truman Scientific  
22 Guide to Pest Management, I believe.

23 Q. Were you required to use that book in  
24 your employment?

25 A. No, I wasn't. It wasn't a book

1 PAUL D'AURIA

2 that -- that they would give us. I had to  
3 purchase that myself.

4 Q. And was there a reason why you  
5 purchased that book?

6 A. I like to keep informed so I would  
7 buy various books or trade magazines.

8 Q. Got it. So in '04, '05 you purchased  
9 a book and you learned about Dichlorvos; is  
10 that right?

11 A. Yes.

12 Q. And what did you learn about the  
13 product, this organic phosphate product?

14 A. I learned it was a product -- it  
15 wasn't used that much in the United States. It  
16 was used mostly -- it had been used, I think,  
17 first in the '50s and '60s. It hadn't had too  
18 many commercial applications until sometime in  
19 the 2000s, it started being used in Nuvan pest  
20 strips.

21 Q. And you said it became more in use in  
22 the 2000s?

23 A. Yes. At a certain point, the EPA  
24 allowed companies to sell it over the counter  
25 as opposed to the more commercial -- for



1 PAUL D'AURIA

2 commercial applicators, it was called Nuvan  
3 Strips. Then at some point, the EPA allowed  
4 them to be branded under other companies to  
5 make it.

6 Q. And other than reviewing or  
7 researching or learning about DDVP in that  
8 book, did you ever do any independent research  
9 about the product?

10 A. I did read more as I would come  
11 across it in magazines or blogs.

12 Q. Beginning in the 2000s did you ever  
13 see that product used in any place where you  
14 worked where you were assigned?

15 A. Only Starbucks.

16 Q. And did you start to see that in the  
17 early 2000s when you worked at Starbucks?

18 A. I saw them -- first time I saw them  
19 in Starbucks was about 2007 or 2008.

20 Q. And do you recall the first place you  
21 saw them in 2007, 2008?

22 A. The particular store, I don't  
23 remember.

24 Q. How about generally?

25 A. Generally, I would find them on the

1 PAUL D'AURIA

2 floors in the stores. I would find them on  
3 shelves, under the sink.

4 Q. And in this time period, 2007, 2008,  
5 is it your testimony, or -- strike that -- is  
6 it correct that was the first time you started  
7 to see the DDVP product show up?

8 A. Correct, yes.

9 Q. And how often would you find this  
10 product during that 2007, 2008 time period?

11 A. I was starting to see them more  
12 frequently.

13 Q. Of the stores that you were visiting  
14 and evaluating, approximately how many  
15 percentage-wise had that product in it?

16 A. Back then, I serviced about 100. In  
17 each store, I would say probably more than half  
18 at that time.

19 Q. Right. And when you saw those  
20 products what, if anything, did you do?

21 A. I would document it on the work order  
22 or email it to the facility manager or to  
23 Ms. Shwiner.

24 Q. When you say "or," was it either/or  
25 or did you do both?

1 PAUL D'AURIA

2 A. If I didn't tell the facilities  
3 manager, Ms. Shwiner would let them know that  
4 these products were in the store.

5 Q. And what did you say in your  
6 communications, first to the Starbucks  
7 personnel?

8 A. Basically, these products are not  
9 supposed to be in food establishments. They  
10 shouldn't be around people. It wasn't a  
11 chemical you would want sitting in a food  
12 establishment where people were.

13 Q. Okay. And during that '07, '08 time  
14 period where approximately half the stores used  
15 the products, was it your experience that the  
16 stores continued to use DDVP over the period of  
17 time that you worked for AVP?

18 MR. GRAFF: Objection.

19 A. Yes.

20 Q. You can answer.

21 A. Yes, I continued to see them even  
22 after we told them they were not to be used.

23 Q. And was the frequency similar over  
24 time to what you mentioned, about half the  
25 stores used them over time?

1 PAUL D'AURIA

2 A. At that time, yes, I would say it was  
3 pretty consistent.

4 Q. And other than the '07, '08 time  
5 period, in the other periods that you worked  
6 for Starbucks -- and let's focus on the '13 to  
7 '18 -- did you see that product, DDVP, a  
8 similar amount of times when you were working  
9 for AVP?

10 A. I started --

11 MR. GRAFF: Objection.

12 A. I started to see them more  
13 frequently.

14 Q. I'm sorry, I didn't hear you.

15 A. I started to see them more  
16 frequently.

17 Q. More frequently? More than  
18 50 percent of the time?

19 A. Yes.

20 Q. Was your practice the same when you  
21 would see them in that 2013-2018 time period?

22 A. Yes.

23 Q. Okay. When you brought to the  
24 attention of Starbucks personnel, what, if any,  
25 response did you receive from them regarding

1 PAUL D'AURIA

2 the DDVP product?

3 A. Sometimes no response. Sometimes  
4 they would say okay, you know, we got it, we'll  
5 pass it along. But usually it was very little  
6 action to our emails.

7 Q. Do you recall any occasions when you  
8 advised a manager of a store that you observed  
9 the DDVP product in his or her store that they  
10 removed the product from the store?

11 A. On occasions I would see either  
12 sometimes a manager or assistant manager or  
13 shift supervisor, and I would tell them.  
14 Sometimes they would tell me they used the pest  
15 strips, and I would advise them against it.

16 Q. And did you tell anybody at AVP about  
17 the product?

18 A. Yes.

19 Q. And who did you tell at AVP?

20 A. Usually Ms. Shwiner.

21 Q. Anybody else?

22 A. Maybe in passing to the co-owners. I  
23 can't recall exactly.

24 Q. Anyone else you can recall?

25 A. Not at AVP, no.

1 PAUL D'AURIA

2 Q. Okay. Other than communicating with  
3 Starbucks and AVP about the products being in  
4 the Starbucks stores, did you communicate with  
5 anyone else about those products being in  
6 Starbucks stores?

7 A. I did contact someone who wrote a  
8 blog about these strips, and I --

9 Q. And when was that?

10 A. I would say around 2015 or '16.

11 Q. Okay. And who was the person that  
12 wrote the blog?

13 A. Dr. Matt Frye, Cornell University.

14 Q. Could you spell that name?

15 A. Sure. It's Matt Frye. Last name is  
16 F-R-Y-E.

17 Q. And who was the individual again?

18 A. He's Dr. Matt Frye. He's an  
19 entomologist at Cornell University. He heads  
20 up their IPM program.

21 Q. Okay. And how often did you  
22 communicate with that doctor in that time  
23 period?

24 A. Over the course of a few years, maybe  
25 10, 15 times.

1 PAUL D'AURIA

2 Q. And do you have those communications?

3 A. Yes.

4 Q. And have you produced them in this  
5 case?

6 A. Yes.

7 Q. Tell me the substance of the  
8 communications that you had with the doctor.

9 A. At first, I told him that I enjoyed  
10 reading what he had been writing previously,  
11 and I was especially curious about the strips  
12 and how to communicate to my customer -- I  
13 didn't tell him who on it was -- how to  
14 communicate the dangers of the strips.

15 He told me to document it, you know,  
16 give them any kind information that was online  
17 to maybe help them out, give them a copy of the  
18 label, the safety data sheet. Basically told  
19 me to document it.

20 Q. And when's the last time you  
21 communicated with the doctor through his or  
22 her -- his blog?

23 MR. GRAFF: Object.

24 A. My last email concerning pesticides  
25 with Matt was probably 2019, 2018. I'm not

PAUL D'AURIA

sure.

Q. Okay. And over that four or five period of time that you communicated with the doctor, approximately how many emails or other types of communications did you have with him?

A. Besides the emails, I texted him once. He just had a baby. I congratulated him on his baby. Maybe I -- I followed him on Twitter. I probably commented on things he wrote.

Q. And have you produced all those communications to your attorney in response to our document request?

A. If I had them saved. And I had many accounts that were actually closed down by Twitter.

Q. And do you have his email address?

A. Yes.

Q. And what is it?

A. It's a Cornell University address. I don't know it off the top of my head.

Q. Okay. Well, if you recall, we'll leave a blank in the transcript and you can fill it in if you recall.



1 PAUL D'AURIA

2 A. Okay.

3 INFORMATION TO BE SUPPLIED:

4 \_\_\_\_\_  
5 \_\_\_\_\_

6 Q. Did you ever talk to him on your cell  
7 phone?

8 A. I believe I had one conversation with  
9 him on my cell phone.

10 Q. And what did you discuss?

11 A. Mostly the dangers of the DDVP and  
12 pest strips in general.

13 Q. Okay. Anyone else you communicated  
14 with other than the doctor outside of Starbucks  
15 and AVP on the DDVP product?

16 A. I did contact another entomologist at  
17 Texas A&M University. I wanted to be sure that  
18 I had done everything I could to notify  
19 Starbucks of the dangers and I kind of wanted a  
20 second opinion on whether or not I was doing  
21 the right thing as far as documenting it the  
22 way I did.

23 Q. And who was that person?

24 A. His name is Dr. Michael Merchant.

25 Q. And where is the doctor located?

1 PAUL D'AURIA

2 A. Texas A&M University.

3 Q. And how many communications did you  
4 have with that doctor?

5 A. Two or three, I think. Just a short  
6 chain of emails.

7 Q. And what was the substance of the  
8 communications?

9 A. Basically, it's the best way to  
10 communicate dangers of that product.

11 Q. And did you receive communications  
12 back from the doctor?

13 A. Yes.

14 Q. What were the substance of his  
15 responses?

16 A. Basically, to make sure you document  
17 everything, put it in writing.

18 Q. Other than these two doctors, was  
19 there anyone else you communicated with outside  
20 of Starbucks or AVP during the last five or six  
21 years of your employment?

22 A. Before the lawsuit or after?

23 Q. Both. Let's take -- let's start with  
24 before.

25 A. Before the lawsuit, no.

1 PAUL D'AURIA

2 Q. And after the lawsuit?

3 A. I spoke with New York State DEC.

4 Q. And when did you talk to the DEC?

5 A. I spoke to them in emails and on the  
6 phone once in 2018 and then again in 2019.

7 Q. And who did you speak with?

8 A. The first time -- the first time was  
9 someone at the Long Island City Office. I  
10 think his name was Malik.

11 Q. Okay.

12 A. We talked once over the telephone and  
13 in emails, and then --

14 Q. What was Malik's position?

15 A. He was in the pesticide enforcement,  
16 I believe.

17 Q. Tell me what your communication was  
18 with him.

19 A. I wanted to ask him how to report a  
20 chemical that was being used improperly.

21 Q. Okay. And what did he say to you?

22 A. He told me to send whatever  
23 information and photo documents that I could  
24 provide to him.

25 Q. And did you do that?

1 PAUL D'AURIA

2 A. At that company, I don't know if  
3 Ms. Shwiner might have emailed other people.  
4 I'm not sure.

5 Q. So you recall doing the same thing at  
6 Le Pain Quotidien that you did at Starbucks by  
7 alerting the facilities manager; is that right?

8 A. Yes.

9 Q. And after you alerted the facilities  
10 manager there, did you see any change of use of  
11 the pest strips at that organization?

12 A. No, I did not.

13 Q. Do you recall seeing these products  
14 anywhere else other than where you've  
15 mentioned?

16 A. No.

17 Q. When you were reporting the pest  
18 strips to individuals at Starbucks, both the  
19 managers and the facilities managers, did they  
20 advise you to remove these pest strips?

21 A. On one occasion, they did. And  
22 Ms. Shwiner informed them that we wouldn't take  
23 responsibility to remove those because they  
24 had -- they had to be disposed of a certain way  
25 such that they were brand new. So we told

1 PAUL D'AURIA

2 Starbucks we were not going to touch those  
3 devices.

4 Q. So you were never directed to remove  
5 them; correct?

6 A. We were told to remove them, but we  
7 refused to remove them for liability reasons.

8 Q. And did you communicate that request  
9 to anyone at AVP?

10 A. Jill, I believe, Ms. Shwiner was also  
11 copied on that email, or maybe she was -- it  
12 was sent to her, and it might have been -- she  
13 might have forwarded it to me, but we were both  
14 told to remove them when we see them.

15 Q. Do you ever recall going to a  
16 Starbucks location, seeing a pest strip,  
17 reporting it to a manager, a facilities  
18 manager, returning to the same store and seeing  
19 the pest strip was gone?

20 A. Not that I can remember, no.

21 Q. And would you memorialize that  
22 observation in your report to the manager of  
23 the store that it remained there after you'd  
24 reported it before?

25 A. Yeah, usually I would, you know,

1 PAUL D'AURIA

2 finished reviewing it.

3 THE WITNESS: I've read it.

4 (D'auria Exhibit No. 1 was marked for  
5 identification.)

6 BY MR. WEBER:

7 Q. Tell me what this is.

8 A. This looks like a forward to Tom  
9 Masseria from Ms. Shwiner.

10 Q. And who is it sent to?

11 A. It looks like it was sent to Thomas  
12 Masseria.

13 Q. And who is he?

14 A. He was a facilities manager.

15 Q. And when was this sent?

16 A. July 2013.

17 Q. So do you believe that you advised  
18 Jill shortly around that time about the pest  
19 strip?

20 A. Yes.

21 Q. Okay.

22 A. I can't see the photo. I don't know  
23 if there's a photo there or not. I can see the  
24 text.

25 Q. Got it. And when she says "next to

1 PAUL D'AURIA

2 the air vent," what did you understand that to  
3 mean?

4 A. If it's the store that I kind of  
5 remember where this was, it was hanging in  
6 front of either an air intake or an air  
7 conditioning vent in the store.

8 Q. It says in this email the product is  
9 being used in violation of the package  
10 direction; correct?

11 Do you see that?

12 A. Correct. I see it.

13 Q. And do you understand "the package  
14 direction" to mean that it's not licensed to be  
15 used at a food establishment?

16 Is that your understanding?

17 A. Yeah, the label for the products  
18 specifically state they're not to be used in  
19 food establishments, food areas, anywhere where  
20 people occupy that space.

21 Q. And do you know what, if anything,  
22 happened as a result of Jill's email to Tom?

23 A. I don't remember.

24 Q. Did you follow up at all with it?

25 A. I don't think I did.

1 PAUL D'AURIA

2 MR. WEBER: Okay, that's Exhibit 1.

3 Okay, let's go to 00075, put that one  
4 up.

5 (D'auria Exhibit No. 2 was marked for  
6 identification.)

7 BY MR. WEBER:

8 Q. I'll show you Exhibit 2. Can you  
9 identify that document?

10 A. Yes, I see it.

11 Q. What is it?

12 A. An email from me to Margaret at  
13 Starbucks and to AVP.

14 Q. And what was this about?

15 A. If I recall, this was a store I  
16 was -- I can't see the photo. It sounds like  
17 they have a large overhang over the bar, and I  
18 was going to place a fly trap up there and I  
19 saw a whole bunch of pest strips up there. I  
20 had to climb a large ladder to get up there,  
21 and I used my camera to be able to see what was  
22 up there after I put the trap up there and I  
23 saw the pest strips.

24 Q. So it looks like you took five  
25 pictures of the pest strip and attached it to



1 PAUL D'AURIA

2 the email you sent to Margaret. Would that be  
3 accurate?

4 A. It looks like photos, yes. I can't  
5 see if there's any photos attached.

6 Q. Got it. And what, if anything, did  
7 Margaret do in response to your email?

8 A. I believe that might have been one  
9 she asked us to remove them, and I told her I  
10 wouldn't even be able to reach them. It was  
11 about probably 15 to 20 feet off the floor and  
12 it wasn't in a safe area.

13 Q. So why were you -- I'm sorry, go  
14 ahead.

15 A. I never went back up on the ladder,  
16 so I --

17 Q. So why were you looking up there 15  
18 or 20 feet up in the ceiling there? What  
19 caused you to go up there?

20 A. I was trying to find a place out of  
21 sight where I could put a fly stick or probably  
22 an organic fruit fly trap.

23 Q. And did you do that, in fact, leave  
24 that fly trap up there?

25 A. I believe I did.

1 PAUL D'AURIA

2 MR. WEBER: All right. Next  
3 exhibit, 44.

4 (D'auria Exhibit No. 3 was marked for  
5 identification.)

6 BY MR. WEBER:

7 Q. I show you Exhibit 3, and if you  
8 could take a look at that document, tell me if  
9 you recognize it.

10 A. Yeah, it looks familiar. I wrote  
11 that.

12 Q. Okay. And who did you write it to?

13 A. I sent that to Ms. Shwiner.

14 Q. Okay. And what was the purpose of  
15 your email?

16 A. To let her know that the strips were  
17 sitting in -- basically on the floor at the  
18 counter in a puddle. I was quite angry.

19 Q. You say: "I need to be copied."

20 What does that mean?

21 A. I just wanted to be notified that we  
22 are sending all this information to Starbucks.

23 Q. And you said: "I'm not getting this  
24 crap in my lungs."

25 Do you see that?

1 PAUL D'AURIA

2 Q. Looks like -- is this from you from  
3 your mobile?

4 A. Yes.

5 Q. On, well, on July 5, 2015? See that?  
6 To whom are you communicating?

7 A. That is to Jill.

8 Q. And are your texts in the gray and  
9 hers in the green?

10 A. I'm gray in that top one.

11 Q. And then purple on the others?

12 A. Yeah, pink or purple. She looks like  
13 she's green.

14 Q. Got it. And I think you say:  
15 "Reporting the DDVP use on them."

16 What do you mean, "on them"?

17 A. Starbucks.

18 Q. Starbucks?

19 "I've had it." Those are your words;  
20 correct?

21 A. Right.

22 Q. And it appears Jill then says:  
23 "Which stores and pics? I'll email to Bill."

24 Do you know who bill is?

25 A. Bill Miko, head of facilities for

1 PAUL D'AURIA

2 New York.

3 Q. Okay. And then you say: "They won't  
4 listen. Done warning them. I'm inhaling this  
5 shit without knowing it."

6 Were those your words?

7 A. Correct.

8 Q. All right. And then you say: "I'm  
9 including it on the work order."

10 Are those the reports that you would  
11 give to the manager?

12 A. Yes.

13 Q. Okay. Then you say: "If I file a  
14 complaint, I'm getting a list of DMS."

15 What's DMS?

16 A. I probably meant district managers,  
17 plural. "District managers" should have been a  
18 small lowercase S.

19 Q. And what's the "Someone is telling  
20 stories [sic] to buy this shit."

21 What are you referring to?

22 A. Someone was telling the employees at  
23 the stores to buy these strips.

24 Q. And who do you think was buying these  
25 products?

1 PAUL D'AURIA

2 A. I believe that's Jill, probably  
3 talking about rodents coming into the store  
4 because their vendor would leave the door open  
5 making deliveries so looks like mice were  
6 probably running in from the street.

7 Q. And who says: "Ugh, okay"?

8 A. I think that's me. I say: "That  
9 sounds about right. Haven't seen any holes in  
10 the store." I told her sorry she had to go  
11 because she had to go in in the morning if I  
12 had to work nights so Jill would take calls in  
13 the morning.

14 Q. And who wrote the words in the gray  
15 box: "I'm not going in"?

16 A. I think that's Jill.

17 Q. So you think she said: "I'm not  
18 going go in. I'll chance it. If something  
19 happens, I'll go in later"?

20 A. Yes.

21 Q. And who is she referring to there in  
22 that portion of the text?

23 MR. GRAFF: Objection.

24 A. It looks like -- it looks like she's  
25 talking -- it looks like she's having a

1 PAUL D'AURIA

2 conversation with Margaret at facilities. And  
3 she told her about Penn Station and we were  
4 having a problem with our supplies missing.  
5 And we would find our fly traps missing and we  
6 would find DDVP strips in the stores. And all  
7 of our items that we placed in the store for  
8 rodents and flies were vanishing. She also --

9 Q. Is she -- go ahead. I'm sorry.

10 A. And she also was talking about  
11 putting in, installing fly lights to catch the  
12 flies.

13 Q. Is she saying that the AVP products  
14 are missing from the store?

15 A. Yeah, things like mousetraps and fly  
16 traps. They were being thrown away by  
17 Starbucks employees.

18 Q. Did you have any understanding of why  
19 Starbucks employees would throw away AVP  
20 products?

21 A. Truthfully, no. I think they were  
22 told by EcoSure, who was a third-party  
23 inspector that they used, that fly traps or  
24 mousetraps were against regulations, and they  
25 were just throwing away our product.

1 PAUL D'AURIA

2 Q. Was it your understanding that AVP  
3 was responsible for installing mousetraps and  
4 similar products?

5 A. Yeah, mousetraps, fly traps, yes.

6 MR. WEBER: Let's go to the next  
7 exhibit.

8 (D'auria Exhibit No. 6 was marked for  
9 identification.)

10 BY MR. WEBER:

11 Q. Let's take a look at Exhibit 6.  
12 Could you tell me what this is?

13 A. I can't see the photo, but it looks  
14 like an email to Ms. Shwiner about a store  
15 where they were putting the pest strips in the  
16 drains in the basement.

17 Q. Okay. And these are pest strips  
18 again?

19 A. Yes.

20 Q. Are pest strips allowed in basements  
21 where there are no patrons?

22 A. It's not allowed -- they're not  
23 allowed to be anywhere where there are people  
24 or food, food supplies, things of that nature.

25 Q. Okay. So let me ask you this: Where

1 PAUL D'AURIA

2 are pest strips allowed to be used?

3 A. Pest strips are allowed in a garbage  
4 room, a sealed room, a shed, crawlspaces,  
5 things of that nature where people normally  
6 aren't present.

7 Q. And do you know what, if anything,  
8 Jill did in response to your September 23,  
9 2015, email?

10 A. I assume she forwarded it on to  
11 whoever the facilities manager was.

12 Q. You don't know that for sure;  
13 correct?

14 A. I'm not for sure. There were so many  
15 emails, I might have seen it, I might not have.

16 Q. Okay. And what was Jill's position  
17 in 2015 at AVP?

18 A. Jill was basically the operations  
19 manager for Starbucks and from AVP  
20 specifically. Mainly Starbucks was the big  
21 account.

22 Q. Was she responsible for any other  
23 companies that were clients of AVP?

24 A. I believe she also put in bids for  
25 jobs that AVP was trying to win. She also did



1 PAUL D'AURIA

2 see now a text with a picture of a pest  
3 strip and a fly light.

4 MS. GOLDSTEIN: Did the page just  
5 switch on you?

6 MR. WEBER: Yeah.

7 THE WITNESS: Yeah, now I see it  
8 back.

9 MS. GOLDSTEIN: You should be able  
10 to toggle it yourself. I just gave you  
11 permission to, to see if you can -- see  
12 if you can flip through the messages  
13 yourself.

14 BY MR. WEBER:

15 Q. Yeah, if you would, Mr. D'aurio, take  
16 control and go from the first page and walk us  
17 through it.

18 A. Is that the one dated March 23, 2017?

19 Q. I believe that's correct.

20 A. Okay. "DDVP all over." Skull.

21 "DDVP toxic." And it looks like I was showing  
22 Jill that somebody logged into my -- I don't  
23 know if that was Twitter.

24 Q. If you could take control and just  
25 walk us through the first page throughout, can

1 PAUL D'AURIA

2 you do that?

3 A. Sure.

4 MR. GRAFF: That looks to me like  
5 you're referring to the third page of  
6 the exhibit. I think he's asking to go  
7 to the very first page.

8 THE WITNESS: Oh, first? Okay,  
9 sorry.

10 MR. WEBER: Yeah, there we go.

11 Q. Okay. So that's page 1 of Exhibit 7.  
12 Explain to us who's -- are you in the green  
13 again?

14 A. Yes, I'm the -- I think that's Jill  
15 in the green and that's me in the pink, looks  
16 like pink. Sometimes it's gray, it looks like,  
17 for me.

18 Q. So whose words are: "Sorry, waiting  
19 to hear from cardiologist. My heart rate won't  
20 drop below 130"?

21 A. That's Jill.

22 Q. And what is she referring to on:  
23 "I'm sorry, I thought I had text you. Congrats  
24 on the preggo announcement"?

25 A. I think my niece was pregnant.

1 PAUL D'AURIA

2 Q. Okay. Then it says: "Okay, sorry,  
3 let me know about the Starbucks email and the  
4 DDVP."

5 Who's that from?

6 A. That looks like it's me to Jill.

7 Q. And that looks like it's dated  
8 August 1, 2016; is that correct?

9 A. Correct.

10 Q. All right, let's go to the next page.  
11 There's a picture there on top?

12 A. Yes.

13 Q. Do you know who took that picture?

14 A. I believe it was me.

15 Q. And what is it a picture of?

16 A. Looks like the back line of the  
17 Starbucks.

18 Q. I'm sorry, say that again. What is  
19 it?

20 A. It looks like the back line of the  
21 counter area of Starbucks, maybe the back  
22 line --

23 Q. Okay.

24 A. -- or the front line.

25 Q. Okay. Are there any pest strip

1 PAUL D'AURIA

2 products in this picture?

3 A. I can't blow this up. I can't see.

4 All I can see is a couple of -- can I blow it  
5 up? Let me look.

6 Q. Yeah, the little bottom plus sign and  
7 a microscope -- or, not a microscope, but a --

8 MS. GOLDSTEIN: Magnifying glass.

9 MR. WEBER: See the little --

10 MS. GOLDSTEIN: It should be  
11 towards the bottom left.

12 THE WITNESS: I can make it full  
13 screen but I don't see the pest strip in  
14 that photo, not from here.

15 MR. WEBER: Okay.

16 THE WITNESS: I can't see -- I see  
17 the line.

18 MR. WEBER: Let's finish this.

19 Q. Who says: "Holy shit, that little  
20 turd was fast"?

21 A. I believe that was Jill. We must  
22 have been talking about a mouse on some store.

23 Q. Okay. You don't know who she's  
24 referring to?

25 A. Not offhand, no. A rodent probably

1 PAUL D'AURIA

2 of some kind.

3 Q. Okay, finish what you're referring  
4 to. In the gray, who says that?

5 A. "Stuck to the walls, floor, and  
6 pastry rack. I'll email Alloy when I get up.  
7 No rush. Store No. 7446 hopefully gets shut  
8 down. Then all the stores will be forced to  
9 clean and throw out DDVP."

10 Q. Next page.

11 A. "DDVP all over again. Feel ill  
12 again."

13 I think -- changes color, I think  
14 that's Jill with the skull. And I put: "DDVP  
15 is toxic," then something about somebody  
16 logging into my account somewhere.

17 Q. What do you mean, logging into your  
18 account?

19 A. Looks like something from Twitter.  
20 Sometimes I would get an email. If you log in  
21 from a different device you would get something  
22 that said "We noticed a recent log in to your  
23 account."

24 Sometimes it's, depending on where  
25 you are, it's a different location from where

1 PAUL D'AURIA

2 you actually are so I just showed that to Jill.

3 Q. Okay. Let's go to the next page.

4 A. That's DDVP.

5 Q. Who took this picture?

6 A. That was me. I took that.

7 Q. And what's that a picture of?

8 A. That is a pest strip in a fly light.

9 It has a cover over it, and when I lifted up  
10 the cover to change the glue board, the strip  
11 had fallen down.

12 Q. Whose words are in the gray: "I'm  
13 mailing everyone at Starbucks"?

14 A. That was me.

15 Q. And is there a next page or is that  
16 the end of the text?

17 A. Let's see if there's another.

18 Q. Okay.

19 A. I --

20 Q. When you say -- who says: "I need  
21 everyone's email address, Rami, DMS."

22 Who's Rami and who wrote that?

23 A. That was me. I was pretty fed up,  
24 and I said I would just email Rami, who was in  
25 charge of quality assurance and the district

1 PAUL D'AURIA

2 managers. I then said: "They were told to get  
3 rid of them. The email said Starbucks would  
4 tell them. This was moved and placed in the  
5 fly light. May be time to take legal action."

6 I emailed Jill, saying: "I emailed  
7 Rami to call me tomorrow, I'm dropping the  
8 account."

9 Q. And when you said it may be time to  
10 take legal action, what were you referring to?

11 A. Reporting them.

12 Q. To whom?

13 A. The New York State DEC and the EPA.

14 Q. Did you ever do that?

15 A. Not at that time, no. Jill asked me  
16 to -- for time to resolve it.

17 Q. Say that again.

18 A. Jill had already asked me to give her  
19 time to try and get Starbucks to resolve the  
20 situation we were having with them.

21 Q. Got it. Did you ask Jill to take  
22 legal action?

23 A. No.

24 Q. All right. Is that the end of the  
25 document or is there another page?

1 PAUL D'AURIA

2 A. Let's see.

3 MS. GOLDSTEIN: There should be  
4 more.

5 Q. Whose words are in the purple?

6 A. Purple looks like me.

7 Q. And would you read the first two  
8 entries there?

9 A. "Fuck every last one of these people.  
10 This bitch is first on my list. Didn't reply  
11 to me."

12 Q. Who are you referring to there when  
13 you say "this bitch"?

14 A. I'm not sure.

15 Q. And who says: "I don't blame you"?

16 A. I believe that's Jill.

17 Q. And is your -- is that your next  
18 words in the gray?

19 A. Yes.

20 Q. And what did you say there?

21 A. "Do you have the email where she said  
22 for me to dump the DDVP? If you do, I need  
23 it." I go -- then I asked -- then I asked her,  
24 I think, if Rami replied and I think Jill says:  
25 "I'll look for it."



1 PAUL D'AURIA

2 Q. Okay. Anything else in that text?

3 A. Next page: "I'm going to ask to talk  
4 to Rami about the fly calls, filth, and  
5 Dichlorvos."

6 Q. Did you do that? Did you talk to  
7 her?

8 A. That was Jill, I believe, and --

9 Q. Okay.

10 A. "Okay, good." She said: "Can you  
11 send me that pic of the blocks when you get a  
12 chance?"

13 Q. What's that a picture of?

14 A. Let me blow it up. I can't see the  
15 bottom. It looks like a piece of equipment.  
16 But I believe it was rodenticide that someone  
17 was throwing out. If I referred to them as  
18 blocks -- if she referred to them as blocks,  
19 it's probably eight blocks that were purchased  
20 by Starbucks.

21 Q. Do you see any pest strips in this  
22 picture?

23 A. From this picture? No, I can't see  
24 anything except a plug and some wires some kind  
25 of device behind that counter.

1 PAUL D'AURIA

2 Q. Okay. And anything more in this  
3 text?

4 A. "I sent Matt Frye a pic of pest  
5 strips (nothing to ID the account). He said  
6 jaw is still dropped from it."

7 Q. September 15, 2015; is that right?

8 A. September of 2015.

9 Q. And Matt Frye is the doctor you  
10 referred to before?

11 A. Yeah, correct.

12 Q. And whose words are in the gray?

13 A. The gray? The gray is me, and  
14 sometimes it's purple.

15 Q. Got it. And then you say: "I sent  
16 Matt Frye a pic of pest strips (nothing to ID  
17 the account)."

18 What were you referring to?

19 A. I was telling Jill that I sent a  
20 photo of pest strips that I found in the store  
21 to Matt without showing that it was a  
22 Starbucks.

23 Q. And then is that what -- who says:

24 "Hope you got those shoes off him"?

25 What's that referring to?

1 PAUL D'AURIA

2 A. Some joke about somebody in the  
3 street, the way he was dressed, and I sent a  
4 picture of him. And it was just a joke between  
5 us about how someone were dressed.

6 Q. How were they dressed?

7 A. Big baggy khaki pants and some kind  
8 of weird shoes.

9 Q. Okay. Anything else? All right,  
10 anything in that -- further in that text?

11 A. I don't see anything else.

12 MR. WEBER: Okay, let's go to the  
13 next exhibit.

14 (D'auria Exhibit No. 8 was marked for  
15 identification.)

16 BY MR. WEBER:

17 Q. Looking at Exhibit 8, it appears to  
18 be an email from you to Jill November 9, 2015.

19 A. Correct.

20 Q. You say: "Grand Central 7800."

21 Is that the Starbucks store at Grand  
22 Central?

23 A. Yes, it is.

24 Q. And it looks like you have attached a  
25 couple photographs; is that right?

1 PAUL D'AURIA

2 A. Yes. I can't see them, but it looks  
3 like they were attachments.

4 Q. Okay. What are you saying to Jill in  
5 this email?

6 A. "That's all we caught. Plus, they  
7 have DDVP on top of air doors." I believe they  
8 called us to troubleshoot a store that they  
9 were having in Grand Central, and I think we  
10 made a visit there together, me and Jill. And  
11 when I went back to check traps, they had put  
12 the air -- DDVP strips on top of the air doors.  
13 Sometimes they're referred to as air curtains.  
14 It would just blow air on an angle to keep  
15 flies out of the store so they had put the DDVP  
16 strips on top of those.

17 Q. So when you used the words "that's  
18 all we caught," what are you referring to?

19 A. Probably whatever, a mouse --

20 MR. GRAFF: Objection.

21 A. Probably a mouse. Either one mouse,  
22 or -- but I'm not sure.

23 Q. And then you say: "Plus, they had  
24 DDVP on top of the air doors."

25 What's that referring to?

1 PAUL D'AURIA

2 A. They put those pest strips on top of  
3 the air doors at the entrances to the store in  
4 Grand Central.

5 Q. Did you remove them from the  
6 location?

7 A. I did not, no.

8 Q. By the way, do you know how to remove  
9 pest strips from a location?

10 Is there a proper protocol on how to  
11 do it?

12 A. The labeling for those say to contact  
13 local waste management to see how to properly  
14 dispose of them.

15 Q. And do you know how they removed  
16 them?

17 A. No, I never -- I never called to ask.

18 Q. You never inquired about the best way  
19 to remove pest strips?

20 A. No. I didn't place them there so I  
21 wouldn't remove them.

22 MR. WEBER: Okay, let's go to the  
23 next exhibit.

24 (D'auria Exhibit No. 9 was marked for  
25 identification.)

1 PAUL D'AURIA

2 BY MR. WEBER:

3 Q. Exhibit 9, review this document.

4 A. I'm trying to enlarge it.

5 Q. There we go. Okay?

6 A. Looks like I attached a couple of  
7 photos to an email telling Ms. Shwiner that  
8 they added at least two new strips that I could  
9 see.

10 Q. And again, photographs again?

11 A. I don't see the photographs. I see  
12 that there were attachments. But I did send  
13 pictures, obviously.

14 Q. How do you know they were new pest  
15 strips?

16 A. You can tell when they're right out  
17 of the package. It's a very bright white  
18 plastic. You can tell they haven't been around  
19 for more than a couple of days.

20 Q. And where did you see them?

21 A. If this was -- I believe this was  
22 Port Authority. Port Authority, they had them  
23 all over the store, so --

24 Q. 825 8th Avenue?

25 A. Yeah, I'm pretty sure that's

1 PAUL D'AURIA

2 Port Authority.

3 Q. Was it your practice that when you  
4 went into a store and saw pest strips you  
5 photographed them and reported them to Jill?

6 A. I didn't always photograph them. I  
7 would report them or write them on the work  
8 orders.

9 Q. So was it your practice to, at a  
10 minimum, report them to Jill when you saw them?

11 A. At a minimum, I would --

12 MR. GRAFF: Objection.

13 A. At a minimum I -- I would report  
14 them. At a minimum, I would always report them  
15 on the work orders and also to Jill if it was  
16 becoming a bigger problem. Sometimes it  
17 progressed to a much bigger problem so I  
18 would -- I would let Ms. Shwiner know  
19 regularly.

20 MR. WEBER: Okay. Next exhibit,  
21 please.

22 (D'auria Exhibit No. 10 was marked for  
23 identification.)

24 BY MR. WEBER:

25 Q. Okay, let's take Exhibit 10. Tell me

1 PAUL D'AURIA

2 what that is.

3 A. Email from Jill. Sent an email to  
4 Stephen about Dichlorvos. Jill sent that to  
5 Alloy about the pest strips, the pastry case,  
6 and one on a light above the bar. She's  
7 telling Alloy that "organophosphate for  
8 everyone. Yum. I sent him those pics labeled  
9 and linked from the DOH, how it affects the  
10 body."

11 Q. So this is from Jill to Starbucks.

12 A. Right.

13 Q. And you're not copied here; right?

14 A. I don't think so. It doesn't look  
15 it. I wasn't always copied on her -- her  
16 emails.

17 Q. Was this a situation where you  
18 brought to her attention and then she brought  
19 it to Starbucks' attention?

20 A. Yes.

21 Q. When it says "I sent to Stephen about  
22 the Dichlorvos. Friday, Paul found one of the  
23 stores (not yours) not only took it out of the  
24 plastic case but put one in the plastic case,"  
25 what is she referring to there, if you know?



1 PAUL D'AURIA

2 A. Someone removed the yellow resin  
3 strip from the plastic case that the strip  
4 comes in, and they took it out and placed it  
5 somewhere in the store. It happened several  
6 times so I don't know which exactly this refers  
7 to, but they would remove the strips and cut  
8 them into pieces and put them around the store.

9 Q. How often did that happen, in your --  
10 from your observation?

11 A. I would say at least three occasions  
12 they would remove the strips from the plastic  
13 casing and cut them and put them around the  
14 store.

15 Q. Do you know what Jill's referring to  
16 when she says: "Friday, Paul found one of the  
17 stores (not yours)"?

18 A. I believe she meant that I found one  
19 in a store, but not Alloy's.

20 Q. But not what?

21 A. But not one of Alloy's. Alloy is  
22 the -- at that time, she was the facility  
23 manager.

24 Q. Okay. When you -- do you know what  
25 Jill means when she says: "Organophosphate for

1 PAUL D'AURIA

2 everyone. Yum"?

3 Do you know what she's referring to?

4 A. Yeah. She's basically saying that  
5 everybody's probably breathing in this  
6 chemical. They're touching it, handling it.

7 Q. And do you know what Alloy's position  
8 was at Starbucks on July 29, 2016?

9 A. I believe he was the facilities  
10 service manager.

11 Q. Okay. Do you know what, if anything,  
12 Alloy did in response to Jill's email?

13 A. I'm not sure, unless there's more  
14 emails that I can read.

15 Q. Is she saying that you took a pest  
16 strip out of the plastic case and put it in  
17 the -- somewhere else?

18 A. No, she's saying employees took it  
19 out of the case. I found it, and someone had  
20 taken it out of the case, and they, meaning  
21 Starbucks employees, put one in the pastry  
22 case.

23 Q. You don't know that firsthand, you  
24 just assume that; right?

25 A. Well, I know it wasn't me, so --

1 PAUL D'AURIA

2 Q. You don't know who it was, do you?

3 A. I know it wasn't me. I assume it was  
4 a Starbucks employee, not specifically who.

5 MR. WEBER: Got it. Okay, let's go  
6 to the next exhibit.

7 (D'auria Exhibit No. 11 was marked for  
8 identification.)

9 BY MR. WEBER:

10 Q. Let's look at Exhibit 11. Looks like  
11 an email dated September 16, 2016.

12 Do you see that email?

13 A. Yes.

14 Q. From Jill to Margaret. You were  
15 copied on that.

16 A. Yeah, let me just get it in the  
17 center of my screen. It's shifting. Margaret  
18 asking Jill for a list of stores that had pest  
19 strips found.

20 Q. And do you know what, if anything,  
21 Jill did?

22 A. I -- I don't know if I was copied on  
23 the email, but I believe she -- she put  
24 together a list of stores for Margaret.

25 Q. Do you understand what is said on the

1 PAUL D'AURIA

2 bottom there, "Roach call for BOH"?

3 Do you know what that is?

4 A. Yeah. It means they called in a  
5 roach from the back of house, "BOH" meaning  
6 back of house.

7 Q. And what does -- what does "roach  
8 call" mean?

9 A. Roach call means they probably called  
10 in a cockroach sighting of some kind. So when  
11 I inspected the store, it looked like I was  
12 under the three-compartment sink and a pest  
13 strip was on the floor and I treated it.

14 Q. And what did you do?

15 A. Treated the area and --

16 Q. You treated --

17 A. I treated the store or the area for  
18 cockroaches.

19 Q. What's 3COM sink means?

20 A. Three-compartment sink.

21 Q. And you were inspecting under it?

22 A. Yes.

23 Q. And what were you looking for?

24 A. Roaches, signs of roaches.

25 Q. And what are typical signs of

1 PAUL D'AURIA

2 roaches?

3 A. Oh, you might find roach feces, you  
4 might find dead roaches. If we had a monitor  
5 under the sink, a glue trap that we would put  
6 out to monitor the roaches, sometimes we'd find  
7 them in the areas on the traps.

8 MR. WEBER: Okay, next exhibit.

9 MR. GRAFF: My video for Michael  
10 has stopped. I don't know if there's  
11 any connection problem for anyone.

12 MR. WEBER: I see mine is --

13 MR. GRAFF: You're frozen. I don't  
14 know if it's affecting anyone.

15 MR. WEBER: I'm back now, I'm back.  
16 Let's look at Exhibit 12.

17 (D'auria Exhibit No. 12 was marked for  
18 identification.)

19 BY MR. WEBER:

20 Q. Looks like it's from you to Margaret.

21 A. Yes.

22 Q. And what is that about?

23 A. Margaret --

24 (Reporter clarification.)

25 A. It's an email from myself to Margaret

1 PAUL D'AURIA

2 telling her that I treated the bar area. And I  
3 attached a photo the bar area was buckling.  
4 There's a typo there. It says "bucking." I  
5 could only pull out the machinery part of the  
6 way because the countertop was buckling, and I  
7 couldn't pull the refrigerator out. I told her  
8 I'd only seen one roach in the back of house,  
9 one roach in the front of house. The store has  
10 been over-cluttered and DDVP strips strewn  
11 about.

12 Q. When you say "strewn about," what did  
13 you mean by that again?

14 A. I'm finding them on the floors, under  
15 the equipment, throughout the store.

16 Q. And did you ever get a response from  
17 Margaret?

18 A. I don't remember if I did or not.

19 MR. WEBER: Okay, next exhibit.

20 (D'auria Exhibit No. 13 was marked for  
21 identification.)

22 BY MR. WEBER:

23 Q. Looks like -- Exhibit 13, can you  
24 identify this document?

25 A. It looks like an email from Leif

1 PAUL D'AURIA

2 Ericksen to Neal -- he's a facilities  
3 manager -- to Ms. Shwiner: "Thanks, all.  
4 Neal, did you submit a work order for the base  
5 tile and leak?"

6 Q. And what's that about?

7 A. It looks like there was an issue.  
8 And Leif, I'm not sure. I don't know if he's  
9 the district manager. He's telling Neal or  
10 asking Neal if he submitted a work order for a  
11 broken base tile, probably, and some kind of a  
12 leak.

13 Q. And what's the relevance of this  
14 communication? Why is that important?

15 MR. GRAFF: Objection.

16 A. I don't know, telling from this  
17 email, what came before or after. I'm not  
18 sure. I'd have to see the rest.

19 Q. What's your understanding?

20 A. It sounds like there's an issue with  
21 base tiles either broken or missing, and a  
22 water leak in the store, which would probably  
23 cause pest issues. And that's why Jill was  
24 involved in it, in the email.

25 MR. WEBER: Okay, next email.

1 PAUL D'AURIA

2 (D'auria Exhibit No. 14 was marked for  
3 identification.)

4 BY MR. WEBER:

5 Q. Okay, let's look at Exhibit 14.  
6 Again, it looks like July 5, '17. Starts, I  
7 think, at the bottom. Is that from Neal?

8 A. At the bottom? The very bottom is an  
9 email from Neal to Jill.

10 Q. And who's Neal?

11 MR. GRAFF: It's a three-page  
12 document. When you say the very bottom,  
13 what page are you looking at?

14 MR. WEBER: The bottom one. I'm  
15 sorry, on the first page, the bottom  
16 one.

17 MR. GRAFF: The bottom of the first  
18 page? Okay.

19 A. Looks like Neal's telling Jill thank  
20 you. This is what the DM is seeing, and will  
21 have them removed as soon as possible. He is  
22 reaching out to his DM counterparts with the  
23 info as well. I forwarded it to the FS team so  
24 they are aware, as we have new folks.

25 Q. Tell me about this communication, if



1 PAUL D'AURIA

2 you can summarize what was taking place here.

3 MR. GRAFF: Objection.

4 A. At the top of the email is an email  
5 from Jill to Neal: "Tech just sent me pics,  
6 strips on the floor." It looks like Jill was  
7 informing Neal that I sent photos of pest  
8 strips, puddles of water on the floor with  
9 felt, and the back room is cluttered, and we  
10 didn't have much space to inspect the back of  
11 the store. And it was also due for their  
12 inspection.

13 Q. Okay. And is this a three-page  
14 email?

15 A. Yes, but it looks like -- should I go  
16 to the next one?

17 Q. Yes, please.

18 A. Looks like Jill mailing a copy of the  
19 labels for the no-pest strips to Neal.

20 Q. And there's a link to an article.  
21 Did you send that article to Jill to send to  
22 Neal?

23 A. I don't know. I probably told her  
24 about it. There was a lot of articles being  
25 written because the CDC put out a warning about

1 PAUL D'AURIA

2 the misuse of pest strips. And we were also  
3 including that to try and get the point across  
4 that they were dangerous.

5 Q. Let's go to the next page. Are those  
6 pictures that you forwarded?

7 A. I don't see photos, but I see that  
8 there were attachments.

9 MR. WEBER: Right. Okay, let's go  
10 to the next document.

11 MR. GRAFF: When you get to a good  
12 spot for a short restroom break, that  
13 would be great.

14 MR. WEBER: That's fine. Take a  
15 break now. Come back at 12:15.

16 MR. GRAFF: Okay, thank you.  
17 (Recess taken.)

18 MR. WEBER: Let's get our next  
19 exhibit up, please.

20 (D'auria Exhibit No. 15 was marked for  
21 identification.)

22 BY MR. WEBER:

23 Q. Look at Exhibit 15, please, if you  
24 can identify this document.

25 A. Yes, I see it.

1 PAUL D'AURIA

2 Q. Okay. Could you tell me what this is  
3 about?

4 A. This is an email. I believe I'd  
5 walked in on a store that I was about to  
6 service and there were bug bombs or pest  
7 foggers that had just been set off in the  
8 store. And I believe Jill probably relayed  
9 that information to Stephen Gallant, and it  
10 looks like he sent out an email.

11 Q. And which store is this at 36th and  
12 6th? Do you know where it is, the location?

13 A. I remember the -- yeah, it's 36th and  
14 6th, right on the corner.

15 Q. And why do you recall that incident?

16 A. I recall because when I walked in,  
17 the vapors of the chemicals from the bug bombs  
18 was filling the air when I walked in.

19 Q. Was this after the store was closed  
20 that day?

21 A. Yes.

22 Q. And somebody set off some kind of bug  
23 bomb?

24 A. Yeah, there were several, if I  
25 remember right.

1 PAUL D'AURIA

2 Q. And how do you know that?

3 MR. GRAFF: I believe that the  
4 marked exhibit is a two-page document.  
5 I'm not sure if the witness is able to  
6 see what's on the second page or if  
7 that's -- thank you.

8 MR. WEBER: Okay, we can pull it  
9 up.

10 Q. All right, so let's take a look. It  
11 says: "My service manager called me."

12 Who is the service manager?

13 A. That would be me. He always called  
14 me the service manager for the account. "I  
15 entered the store. It was full of pesticide  
16 from the store having just set off three Hot  
17 Shot brand fogger bombs. There were no --"

18 Q. Let me stop you there. Let me ask  
19 you a question about the first sentence.

20 A. Okay.

21 Q. How did you know there were three Hot  
22 Shot brands?

23 A. Because I saw them.

24 Q. What I mean is what did you see?

25 A. I seen at least one Hot Shot bomb

PAUL D'AURIA

sitting, I think, on the counter. I went outside, I got my mask, I came back inside and took photos of it.

Q. Okay. What else did you observe?

A. There was no warning posted on the door. I believe this is what I relayed to Jill on the phone. We were doing service -- daily service as requested. I believe that back then it was for fruit flies. And that's the incident that I had called Jill and told her. And I corrected Jill at the top of the email. It wasn't the store on Waverly Place, it was actually the store up on 36th Street and 6th Avenue.

Q. Okay, got it. Okay, let's go to the first page again.

A. Okay.

Q. And do you know what, if anything, happened with respect to this incident?

Did someone follow up with the store manager, to your knowledge?

A. Only that -- it's switching to page 2. I think it looked like Stephen Gallant told people. I don't know who, what their titles

1 PAUL D'AURIA

2 are. He did send them an email.

3 Q. Do you know who Stephen Gallant is?

4 A. He's the head of facilities for New  
5 York City.

6 Q. And you received a copy of this  
7 email?

8 A. I believe I was copied on it, yes.

9 Q. Last sentence says: "This store is  
10 currently receiving daily pest control services  
11 from AVP, and if this is not working, we need  
12 to partner with AVP to increase or change our  
13 focus."

14 Do you see that?

15 A. Yes.

16 Q. Do you know if that occurred, if  
17 there was a change or increase?

18 A. We were doing daily at the time, and  
19 that's pretty much all we could do. The store  
20 wasn't being cleaned properly, and without  
21 proper sanitation, there was nothing else we  
22 could do. I was told the stores were cleaned  
23 and the breeding sites removed. Chemicals  
24 won't do the job, but I believe we pushed them  
25 to clean the --

1 PAUL D'AURIA

2 Q. I'm sorry to interrupt you. What did  
3 you say about chemicals?

4 A. I said chemicals really won't do  
5 anything at the point where the flies are  
6 breeding and so chemicals really won't work in  
7 that situation.

8 Q. So what's the solution?

9 A. Solution to getting rid of most flies  
10 that breed in organic matter is to remove the  
11 organic matter. Any spills, spill, drains, if  
12 drains need to be cleaned, that's usually how  
13 you get rid of the problem.

14 Q. When you say get rid of the organic  
15 matter, what do you mean by that?

16 A. Any kind of spilled coffee beans, any  
17 spilled milk. Condiments like blueberries or  
18 strawberries that might have fallen on the  
19 floor.

20 Q. If you observed those products on the  
21 floor, would you typically report them to the  
22 store manager and Jill?

23 A. Yes. We would --

24 MR. GRAFF: Objection.

25 A. We would make recommendations that

1 PAUL D'AURIA

2 the store be cleaned properly.

3 MR. WEBER: Got it. Let's go to  
4 the next document.

5 (D'auria Exhibit No. 16 was marked for  
6 identification.)

7 BY MR. WEBER:

8 Q. This is Exhibit 16. Can you identify  
9 this document?

10 A. Looks like an email from Rami to  
11 Jill. No-pest strip at store number 9467  
12 sitting on the desk. "Hi, Jill. I'll send out  
13 an email to the RDs tomorrow morning. My  
14 apologies to the tech."

15 Q. What is she referring to, if you  
16 know? What is Rami referring to, if you know?

17 MR. GRAFF: I'll note again there's  
18 a second page to the exhibit that hasn't  
19 refreshed.

20 Q. Okay, let's go to the second page.  
21 There we go.

22 A. "Hi, Rami. The tech just found a  
23 pest strip on the desk, the second store since  
24 yesterday. We found these yesterday. Tech was  
25 working under the counter and turns his head



1 PAUL D'AURIA

2 and he was inches from a strip. This is the  
3 same tech who two weeks ago walked into a store  
4 that had just set off bombs. He is extremely  
5 upset. Is it possible to send a memo out to  
6 advise stores these are illegal to use, let  
7 alone toxic?"

8 Q. Are you the "he" where it says "he is  
9 extremely upset"?

10 A. Yes, that's me.

11 Q. Okay. And then let's go to the first  
12 page. This is an email from Rami to Jill:

13 "I'll send an email to RDs tomorrow."

14 What's Rami referring to?

15 A. I imagine RDs are regional directors,  
16 and he apologized.

17 Q. So Rami is saying he will send out a  
18 message to all RDs about not using pest strips?  
19 Is that what your understanding was?

20 A. I believe so, yes.

21 MR. WEBER: Okay, next exhibit,  
22 please.

23 (D'auria Exhibit No. 17 was marked for  
24 identification.)

25 BY MR. WEBER:

1 PAUL D'AURIA

2 Q. Exhibit 17. If you could look at  
3 that document. Again, is this one page or  
4 more?

5 MS. GOLDSTEIN: It's 16 pages.

6 MR. WEBER: 16? Okay.

7 Q. If you would, take a second,  
8 Mr. D'auria, and review the entire series of  
9 emails so we get a better context of what we're  
10 talking about here.

11 A. Okay. Okay.

12 Q. Okay. Can you summarize what this  
13 communication is about and who made those  
14 pictures and who wrote the comments on the  
15 pictures?

16 A. It looks like most of the pictures  
17 were taken by myself. Looks like Jill was  
18 pointing out to, I believe, Rami that the  
19 strips were placed in various locations  
20 throughout a lot of stores.

21 In one picture, you can see that they  
22 removed the resin strip from the plastic case  
23 of the Hot Shot pest strip. In another  
24 instance, they cut a piece of that off and put  
25 it over a light, on top of a light that was

1 PAUL D'AURIA

2 right where the customer sits and right where  
3 the drinks are made.

4 There's also some photos of wet  
5 buildup of organic filth, and Jill was pointing  
6 out that this is one of the root causes of fly  
7 issues in the stores.

8 Q. Did you on behalf of AVP use products  
9 that should keep the flies away?

10 A. We would put out organic --

11 MR. GRAFF: Objection.

12 A. We would put out products that would  
13 catch the fruit flies naturally using vinegar  
14 and preservatives. Servicing the store once a  
15 month. Basically, there's very little  
16 chemicals that you could use to ward off flies.

17 We would sometimes use a bio cleaner  
18 to treat the drains and to sort of hope eat  
19 away some of the organic stuff with the enzymes  
20 in the bio cleaner, but there was nothing that  
21 we could apply that would keep flies away, no.  
22 There was no --

23 Q. Nothing -- no product that AVP used  
24 to keep the flies away?

25 A. There are no products that keep

1 PAUL D'AURIA

2 like I attached a photograph. One was probably  
3 a spill from a leaky coffee dispenser, and I  
4 emptied it out. "No flies found, just some  
5 roaches at the three-compartment sink and the  
6 sanitizer area. Also, new DDVP strips."

7 Q. And again, who's Keith Costello?

8 A. At the time, I think Keith Costello  
9 was just a facilities manager and not the  
10 director of facilities for New York.

11 Q. And do you know what, if anything, he  
12 did in response to this email?

13 A. I do not.

14 Q. And subject is 7920. Is that a store  
15 location?

16 A. Yeah, that's the store number.

17 Q. And do you know which store?

18 A. Off the top of my head, no. I knew  
19 stores by the addresses rather than store  
20 numbers. It was too hard to remember all the  
21 store numbers.

22 Q. You said earlier your job required  
23 you to spend between 45 minutes and an hour and  
24 a half per store; is that right?

25 A. Sometimes, yeah, I --

PAUL D'AURIA

I was -- used the same email when I had to specifically address something with facilities. And in this case, I was using the company email to tell Kim Healy about an issue. I went on to tell her that there was a few issues with flies in the pastry case, and I was vacuuming the live and dead flies and saw that the pest strip was hidden under the bagels. The food in the case was rotting. Meat and eggs in the case for days would -- will cause fly breeding. And I went on to say that food needs to be changed more often and strips should never be placed there.

Q. Okay. And who's Kimberly?

A. Kimberly was a facilities manager.

Q. Subject 28168, is that a store location?

A. Yes, it is.

Q. Do you know which one?

A. I believe that may have been the store on, I believe, West 45th Street.

Q. Okay. And when you say "I was vacuuming the live and dead flies and saw some pest strips," is that part of your job

1 PAUL D'AURIA

2 responsibility, to do the vacuuming of the  
3 pests and rodents?

4 A. I would vacuum. I would use a vacuum  
5 cleaner to vacuum up the flies rather than  
6 spray chemicals.

7 Q. Got it. Was that typical that you  
8 would do both or -- strike that.

9 Was that typical that you would do  
10 some vacuuming at a store if you found flies or  
11 things of that nature?

12 A. Yeah, I would do that often because  
13 Starbucks requested that we use as little  
14 chemicals as possible.

15 Q. Say that again. I didn't hear you.

16 A. Starbucks requested that we would use  
17 as little chemicals as possible.

18 Q. And do you know why they requested  
19 that?

20 A. Because they're an environmentally  
21 friendly company.

22 Q. I'm sorry, I didn't hear you.

23 A. They were an environmentally friendly  
24 company and I guess they didn't want --

25 Q. Okay.

1 PAUL D'AURIA

2 A. -- the pesticides in stores.

3 MR. WEBER: Okay, next exhibit.

4 (D'auria Exhibit No. 21 was marked for  
5 identification.)

6 BY MR. WEBER:

7 Q. Okay, let's look at Exhibit 21. It's  
8 a one-page document.

9 A. I see it.

10 Q. Okay. July 6, 2016, I think it says.  
11 Is this from you to somebody at the DEC? Is  
12 that right?

13 A. Correct.

14 Q. And you sent this on about July 6; is  
15 that right?

16 A. Correct.

17 Q. Tell me what communication's about.

18 A. Oh, basically, this just is -- I had  
19 a phone call with Mr. Malik probably an hour  
20 before this before, a few hours before this,  
21 and asked me to put everything in writing and  
22 send it to him with any photographs I might  
23 have and explain the situation to him. And  
24 that's what this email was about.

25 Q. Okay. And did you communicate with

1 PAUL D'AURIA

2 anyone at AVP about this communication and your  
3 conversation with Malik?

4 A. No, I did not.

5 Q. Did you communicate with anybody at  
6 Starbucks regarding your communication with  
7 Malik?

8 A. No, I did not tell anybody about that  
9 email, no.

10 Q. Did you send this -- excuse me.  
11 Did you forward this email to anybody  
12 else other than sending it to Malik?

13 A. I don't remember if --

14 MR. GRAFF: Objection as to timing.

15 A. I don't remember if I did. I don't  
16 know. I don't remember if I forwarded this  
17 email other than maybe to my attorney.

18 Q. Anybody on or after July 6, 2018,  
19 other than your attorney that received this  
20 email?

21 A. I don't believe so.

22 Q. You say: "This is Paul D'auria,  
23 applicator, ID BA26411."

24 What is that number?

25 A. That's my pesticide applicator



1 PAUL D'AURIA

2 license from the New York State DEC.

3 Q. And you have to be licensed to do  
4 your job; correct?

5 A. Correct.

6 Q. Is there anything you have to do  
7 annually to maintain your license?

8 A. You would have to -- every three  
9 years you would have to have enough credits to  
10 renew your license.

11 Q. And credits? What kind of credits?

12 A. Online learning.

13 Q. And did you --

14 A. You actually have to --

15 Q. -- do that?

16 A. I would do that either online or in  
17 seminars in person, given by various pesticide  
18 retailers, or chemical companies would come in  
19 and they would give us a seminar and we would  
20 obtain points towards our recertification.

21 Q. And do you have a record of those  
22 courses you took?

23 A. Whatever I had online. Usually the  
24 paperwork is sent in to the DEC to renew the  
25 license so they get the original copies.

1 PAUL D'AURIA

2 Q. So you had to submit to the DEC  
3 whatever courses you took on an annual basis?

4 A. Yeah. If we took them in person, we  
5 would get a letter notifying us that we took  
6 the course and were present for the hours and  
7 how many credits each seminar was. If we did  
8 it online, the people that run the  
9 recertification, they would directly send our  
10 recertification credits directly to the DEC.

11 Q. Okay. And you testified before about  
12 your communications with Malik. I think you  
13 had a phone call. After you sent this email to  
14 him, did he speak to you or send you a  
15 follow-up email?

16 A. I had not heard from him, and I  
17 waited. I don't remember how long I waited,  
18 but I asked him -- I think I might have sent  
19 him a second email and I might have asked him  
20 if he could keep me apprised of the situation.  
21 And then I emailed him at some point, I believe  
22 in 2018, and I asked him if anything had come  
23 of this. And I believe he told me there was no  
24 investigation at the time.

25 Q. Did you say that he said there was no

1 PAUL D'AURIA

2 investigation?

3 A. He told me in an email there was no  
4 investigation. And I believe he told me he was  
5 no longer in that pesticide enforcement office  
6 and I should not contact him again.

7 Q. Did you contact anybody else from the  
8 DEC after you received that communication from  
9 Malik?

10 A. Then I went ahead and I contacted --  
11 actually, I might have asked for the Freedom of  
12 Information Act and requested all the documents  
13 from my Complaint. And then I also emailed  
14 Joyce Rodler at the DEC, and she said that  
15 there was an investigation done and she  
16 received the Freedom of Information Act request  
17 because it comes across her desk. And she said  
18 basically, you know, I would -- I would get  
19 that information from them when it was ready  
20 once they searched through all the documents  
21 and I would be sent the investigation results.

22 Q. And who was that person?

23 A. Joyce Rodler. She was, I believe,  
24 head of the Long Island City, or the Region 2.  
25 She was the, I believe, head of Pesticide

1 PAUL D'AURIA

2 Enforcement.

3 Q. And did you communicate with her  
4 after this response?

5 A. After I had received the  
6 investigation, I did speak with her by  
7 telephone.

8 Q. When was that?

9 A. I don't remember exactly when we  
10 spoke.

11 Q. And what did you say to her and what  
12 did she say to you when you spoke?

13 A. Well, we -- I discussed the  
14 investigation, and I basically told her I was  
15 pretty surprised that the DEC did not warn  
16 Starbucks of their practices of what they were  
17 doing, because the DEC investigators did find a  
18 Dichlorvos strip in at least one store that he  
19 visited.

20 Q. And do you know if any actions were  
21 taken after you communicated with her?

22 A. After I communicated with her, she  
23 told me that there was going to be some  
24 outreach to the Department of Health about  
25 basically stopping the practice and to inform

1 PAUL D'AURIA

2 them more about the use of these insecticides  
3 in food establishments. She was also going to  
4 use, I believe she told me, some of Matt Frye's  
5 materials that he's written on the subject.  
6 And that never happened either. She never sent  
7 me that. She was -- actually told me that she  
8 was going to send it to me to look at before it  
9 was published on the DEC website.

10 Q. And she didn't; right?

11 A. No, she didn't.

12 Q. Was it published on the website?

13 A. I don't think she -- anything was  
14 ever published in regards to this, to the  
15 insecticides, no.

16 Q. Any other communications with anybody  
17 from the DEC?

18 A. Other than my conversation with Joyce  
19 and that phone call, no. I only spoke to  
20 Joyce.

21 MR. WEBER: Okay, next exhibit,  
22 please.

23 (D'auria Exhibit No. 22 was marked for  
24 identification.)

25 BY MR. WEBER:

1 PAUL D'AURIA

2 Q. All right, let's take a look at  
3 Exhibit 22. If it's more than one page, let me  
4 know.

5 A. Okay.

6 Q. Tell me what this is.

7 A. This is my -- an email from Matt. I  
8 told him about, you know, keeping him in the  
9 loop about the Dichlorvos, and he was pretty  
10 shocked by it. The DEC are the people supposed  
11 to be looking out for things like this and  
12 protecting the public, and they -- he was  
13 shocked that they failed.

14 Q. Your email of September 16, that was  
15 to Joyce and to Matt; right?

16 And then Matt responded the next day;  
17 correct?

18 A. Right. He responded, I believe, to  
19 me only.

20 Q. Do you know, when Matt refers to  
21 stakeholders, do you know who he's referring  
22 to?

23 A. I believe basically the stakeholders  
24 are anyone in the -- actually, in New York  
25 State, anyone who has anything to do with the

1 PAUL D'AURIA

2 DEC, people who might be in the agriculture  
3 business, pesticides, the general public. I  
4 think anybody was invited to go there.

5 MR. WEBER: Okay. Next exhibit,  
6 please.

7 (D'auria Exhibit No. 23 was marked for  
8 identification.)

9 BY MR. WEBER:

10 Q. Okay. Let's look at Exhibit 23, the  
11 July 31, '17. I don't know if it's one or more  
12 pages. Take a look.

13 A. It says 43 pages.

14 Q. Okay. Can you skim them and tell me  
15 what's it about?

16 A. I will.

17 MR. GRAFF: Objection.

18 MR. WEBER: I just lost the --

19 MS. GOLDSTEIN: So did I. We may  
20 have to all log out and log back in.

21 MR. WEBER: Try to get that exhibit  
22 back on.

23 MS. GOLDSTEIN: I'll pull it up  
24 now. Okay, you should see it again.

25 BY MR. WEBER:

1 PAUL D'AURIA

2 Q. If you could again try to go through  
3 that again, Mr. D'aurio.

4 A. Okay.

5 Q. All right. Tell me generally what  
6 this communication's about.

7 A. Looks like me and Matt were  
8 discussing Dichlorvos strips, actions taken,  
9 actions not taken, what I had been doing after.  
10 I was no longer doing pest control. A lot of  
11 photos that we had turned over, some that were  
12 part of the lawsuit originally and some that  
13 were turned over later. There's also some  
14 pictures that Matt had sent me. It looks like  
15 photos he had taken of looks like a new vent  
16 strip.

17 Q. What, if anything, did you do with  
18 this communication other than share it between  
19 you and Matt?

20 A. What do you mean by that?

21 Q. In other words, did you send this  
22 communication to anybody? Did you forward the  
23 pictures? Did you share it with anybody else?

24 A. Other than my attorney and -- no, I  
25 don't think so. I showed Matt examples of, you



1 PAUL D'AURIA

2 know, what I was dealing with.

3 (Reporter clarification.)

4 A. There's also pictures of chemicals  
5 that had been sprayed by Starbucks that were  
6 dripping down onto the counters, splashing on  
7 food items and also that splashed on myself.  
8 There's also photos in there of that.

9 MR. WEBER: Okay, maybe we should  
10 take a half an hour lunch break at this  
11 time if this works for everybody.

12 MR. GRAFF: Fine.

13 THE REPORTER: We are off the  
14 record for a lunch break.

15 (A recess was taken for lunch.)

16 BY MR. WEBER:

17 Q. On all the exhibits that we've seen  
18 and all the emails that you sent, Mr. D'auria,  
19 do you know personally of any individual who  
20 put these pest strips in the Starbucks  
21 restaurants?

22 MR. GRAFF: Objection.

23 Q. You can answer.

24 A. Specific names of people, I do not  
25 know.

1 PAUL D'AURIA

2 Q. Okay. You didn't know Mr. Fox,  
3 Rafael Fox, when you worked at the AVP, did  
4 you?

5 A. No, I did not.

6 Q. You didn't meet him until some months  
7 after --

8 A. I met him in --

9 Q. -- you left Starbucks?

10 A. Yeah, I met him in April of 2019.

11 MR. WEBER: Okay, Rebecca, whenever  
12 you're ready.

13 (D'auria Exhibit No. 24 was marked for  
14 identification.)

15 BY MR. WEBER:

16 Q. Okay, let's look at this Exhibit 24.  
17 See if you can identify it, tell me what it is.

18 A. That looks like a -- 43 pages? Do  
19 you want me to look through each one?

20 Q. Yeah, just skim it and tell me  
21 generally what it is.

22 (Off the record to resolve a technical  
23 issue.)

24 BY MR. WEBER:

25 Q. Can you tell us what this document

1 PAUL D'AURIA

2 is?

3 A. It looks like a spreadsheet of stores  
4 for a certain period of time.

5 MR. GRAFF: Pull up each one to see  
6 the dates, if there are any dates on  
7 there.

8 Q. And what does it contain, generally?

9 A. It looks like all issues within the  
10 stores, housekeeping issues, pest issues.

11 Q. Do you know who prepared it?

12 A. I believe Jill did.

13 Q. There's a column in the beginning, is  
14 it DOH of investigation? Let me go back.

15 MR. GRAFF: Since it's 43 pages,  
16 could you specify which page to begin  
17 at?

18 MR. WEBER: In the first five.

19 A. Yes, I see that.

20 Q. I lost the picture again. Says DOH  
21 inspection date?

22 A. Yes.

23 Q. And what's that about?

24 A. That was the date that the DOH was, I  
25 believe, either due or the last time they had

1 PAUL D'AURIA

2 visited the store.

3 Q. And what does DOH stand for?

4 A. Department of Health.

5 Q. And what is your understanding about  
6 how often the DOH visits Starbucks stores?

7 MR. GRAFF: Objection.

8 A. They inspect the stores usually once  
9 a year, give or take, just about 12 months from  
10 the date of their last inspection if they  
11 received an A.

12 Q. And what are they inspecting?

13 A. I believe they inspect all areas of  
14 the store, but I don't know exactly what areas,  
15 what they look for, what they do.

16 Q. Are you aware of any occasions where  
17 the DOL issued any kind of fine against  
18 Starbucks?

19 MR. GRAFF: Objection. If you  
20 could just clarify the name of the  
21 agency you're referring to.

22 MR. WEBER: DOH.

23 A. DOH? I know they were written up for  
24 pesticides on several occasions.

25 Q. How many?

1 PAUL D'AURIA

2 A. Several. More than five. I'm not  
3 sure exactly.

4 Q. How do you know that?

5 A. It was available on the Department of  
6 Health website.

7 Q. And when did you look on that site to  
8 see the times they were written up?

9 A. Well, we would usually look up the  
10 Department of Health inspection date so we  
11 could give Starbucks a heads-up that they were  
12 due and they should make a better effort to  
13 clean, if necessary. So we would kind of give  
14 them a reminder that the Department of Health  
15 was probably going to inspect pretty soon. So  
16 it was more of a courtesy that the DOH was  
17 imminent.

18 Q. So how would you get knowledge of  
19 that?

20 A. It's on the -- their website. Every  
21 Starbucks has a date of when they were last  
22 inspected, so it's usually about a 12-month  
23 period.

24 Q. Got it. So over the years that you  
25 worked with Starbucks, you believe there were

1 PAUL D'AURIA

2 five times that DOH issued some type of fine?

3 A. Every time --

4 MR. GRAFF: Objection to form.

5 A. I think it was five to 10, maybe,  
6 somewhere in that area.

7 Q. Okay, got it. And, for example, when  
8 you worked at Le Pain Quotidien, did they  
9 similarly have DOL fines?

10 MR. GRAFF: Objection. Specify the  
11 name of the agency. You're saying DOL.  
12 I think you're asking about a different  
13 department.

14 MR. WEBER: DOH, DOH.

15 A. DOH? I don't think back then -- I  
16 don't know if we -- if they had that  
17 information up on the website with the letter  
18 grading. I don't know what year the letter  
19 grading started so I wouldn't know about that.  
20 I don't think we looked them up back then.

21 Q. When were you again working at  
22 Le Pain Quotidien?

23 A. I think that was 2011 to 2013 or  
24 2014.

25 Q. Got it. And I think you said they

1 PAUL D'AURIA

2 also used pest strips; correct?

3 A. They had an outside vendor who was  
4 placing the pest strips in the store. And we  
5 let them know basically the same way we let  
6 Starbucks know, and they terminated our  
7 contract.

8 Q. During the period you worked there,  
9 '11 to '14, did you observe pest strips at  
10 Le Pain Quotidien during that period?

11 A. Towards the end, yes. I forget what  
12 year the end was, either -- we either lost the  
13 account in 2013 or 2014, I'm not sure.

14 Q. Toward the end, you observed the pest  
15 strips?

16 A. Yes.

17 MR. WEBER: Okay. All right, let's  
18 go to the next exhibit, please.

19 (D'auria Exhibit No. 25 was marked for  
20 identification.)

21 BY MR. WEBER:

22 Q. Okay, let's take a look at  
23 Exhibit 25. Let me just verify that. Can you  
24 identify this document?

25 A. The first page or all nine?

1 PAUL D'AURIA

2 Q. Take a look at the nine. And again  
3 if you could summarize it, just go through  
4 them.

5 A. Okay.

6 Q. All right. Tell me what this  
7 document is.

8 A. Looks like -- it looks like the  
9 chemical list by AVP.

10 Q. Okay. These are chemicals that AVP  
11 purchased?

12 A. That's what it looks like, yes.

13 Q. And were they to be used in the  
14 facilities that you monitored and evaluated?

15 MR. GRAFF: Objection.

16 A. No.

17 Q. What was the purpose of AVP  
18 purchasing these products?

19 A. A lot of --

20 MR. GRAFF: Objection.

21 A. A lot of -- a lot of techs, when they  
22 do bedbug jobs, a lot of companies will use  
23 Nuvan strips to place inside of sealed plastic  
24 bags. If they have items or clothing that have  
25 bedbugs in them, they would be placed in a bag



1 PAUL D'AURIA

2 and sealed up with the objects that were  
3 infested with bedbugs.

4 Q. There's some red lettering on the  
5 first page there. Do you know who put that on  
6 there?

7 A. I believe that was Jill Shwiner.

8 Q. And do you know why she put that on  
9 there?

10 A. She turned over the documents to our  
11 attorney, but she wanted to make it clear that  
12 we --

13 (Reporter clarification.)

14 A. That we didn't use that product in  
15 Starbucks.

16 Q. So --

17 MR. GRAFF: Pardon me. It sounds  
18 from the answer that this may have been  
19 inadvertently produced as a  
20 communication from the client. You'll  
21 have to, I guess, continue.

22 Q. I only have two questions. One, were  
23 the DDVP products purchased by AVP? Yes or no.

24 A. I believe they were, yes.

25 Q. And two --

1 PAUL D'AURIA

2 A. That's the professional --  
3 professional strips that are only sold to  
4 certified applicators, not to the general  
5 public.

6 Q. Okay. And my second question was,  
7 where did AVP use DDVP products?

8 MR. GRAFF: Objection.

9 A. I wouldn't know. There's other  
10 people in the company, so one of the other  
11 techs probably requested it for a bedbug job.

12 Q. Got it. So the company used pest  
13 strips in certain facilities, but not in places  
14 like Starbucks; correct?

15 A. Usually people's homes, not in  
16 facilities.

17 Q. So not in --

18 A. They wouldn't be brought into --  
19 yeah, usually used in people's homes who wish  
20 to get rid of their bedbug infestation.

21 Q. And is that one of the purposes for  
22 DDVP pest strips, to get rid of bedbugs?

23 A. Correct, yes.

24 MR. GRAFF: Objection.

25 A. That would be.

1 PAUL D'AURIA

2 Q. That would be typically used in a  
3 residential place?

4 A. That would be --

5 MR. GRAFF: Objection.

6 A. That would be used -- that would be  
7 used inside of a sealed bag, an enclosed space  
8 such as a bag with clothing or electronic  
9 equipment to kill the bedbugs. It wouldn't be  
10 used in a --

11 Q. Got it.

12 A. It wouldn't be used in a restaurant  
13 or food establishment.

14 Q. If bedbugs were in a mattress, how  
15 would you use DDVP?

16 A. You wouldn't, unless you had a --

17 MR. GRAFF: Objection.

18 A. You wouldn't, unless you had --

19 THE REPORTER: I'm sorry. This is  
20 the reporter. I need you to be aware of  
21 one speaker at a time. You're cutting  
22 each other off, and all the words need  
23 to get into the transcript. Thank you.

24 A. You wouldn't put those in with a  
25 mattress.

1 PAUL D'AURIA

2 Q. Okay.

3 A. I mean, you could, but it shouldn't  
4 be done.

5 Q. Is Nuvan Strips another word for pest  
6 strips?

7 A. That's the professional grade that's  
8 sold in pest control companies, the same  
9 product. It's the same active ingredients. I  
10 think the Nuvan Strips come in two different  
11 sizes. Other than that and the branding of the  
12 product, it's the same product, same active  
13 ingredient, same release formulation.

14 Q. Okay. When you were at AVP, did AVP  
15 employ other technicians like yourself?

16 A. Other -- other certified applicators?  
17 Yes.

18 Q. Yes?

19 A. Yes.

20 Q. And how many did they employ?

21 A. A quick count --

22 Q. During the last five years you were  
23 there.

24 A. Last five years? There were probably  
25 five certified applicators and a couple of

1 PAUL D'AURIA

2 trainees.

3 Q. Can you recall their names?

4 A. Of the regular full-time employees?

5 Q. Regular technicians like yourself.

6 A. There were Adam Alamonte (ph), Mark  
7 Shwiner, Jerry Mazur, Mike Delbianco (ph), and  
8 myself.

9 Q. Is Mark related to Jill?

10 A. I believe they are ex-spouses.

11 Q. You're breaking up. I didn't hear  
12 you.

13 A. Ex-spouse. Former spouses.

14 Q. Former spouses? Okay.

15 I see on the first page there are a  
16 significant number of Nuvan pest strips that  
17 are purchased, the price of almost \$2,000.

18 Do you see that?

19 MR. GRAFF: Objection.

20 A. I think that's the total. I don't  
21 think that's the amount of strips, but I could  
22 be wrong. I don't -- it's hard to see.

23 Q. Well, I'm seeing under the first  
24 item, it says 16 P strip, 12 strip per pack, 6  
25 packs, 6 boxes per master. Do you have any

1 PAUL D'AURIA

2 understanding of what the \$1,945 relates to?

3 A. I guess that's the price of the whole  
4 order, I assume.

5 MR. WEBER: Okay, let's go to the  
6 next document.

7 (D'auria Exhibit No. 26 was marked for  
8 identification.)

9 BY MR. WEBER:

10 Q. Showing you Exhibit 26. Can you  
11 identify this document or documents, how many  
12 pages there are?

13 A. It looks like a text message. I  
14 don't know who that is.

15 Q. Okay. Did you ever see this document  
16 before?

17 A. I don't think so, no.

18 MR. WEBER: Was this produced by  
19 the plaintiff?

20 MR. GRAFF: Is that a question for  
21 me?

22 MR. WEBER: Was this your document  
23 that you produced?

24 MR. GRAFF: We produced more than  
25 40,000. I can't recall if this was a

1 PAUL D'AURIA

2 page from that or not.

3 MR. WEBER: Rebecca, do you know?

4 MS. GOLDSTEIN: Yeah, this was in  
5 plaintiff's production, from their first  
6 production.

7 MR. WEBER: Okay.

8 BY MR. WEBER:

9 Q. All right, so take another look at it  
10 and see if you can identify any aspects of it.

11 First of all, do you know anybody  
12 named Elijah?

13 A. Not at AVP. The only name that looks  
14 familiar is Sam. I believe Sam owns one of the  
15 construction vendors that did maintenance  
16 inside a Starbucks. I think that was his name.  
17 But I'm not sure who Elijah is.

18 MR. WEBER: Okay, let's move on  
19 from this document.

20 (D'auria Exhibit No. 27 was marked for  
21 identification.)

22 BY MR. WEBER:

23 Q. Okay, Exhibit 27. Can you identify  
24 this document?

25 A. Yes, I see it.

1 PAUL D'AURIA

2 Q. Tell me what it is.

3 A. It's an email from me about the pest  
4 strips. It looks like I attached photos. And  
5 I told her I can't imagine floating down onto  
6 people and any food or drinks. And I said a  
7 lawsuit isn't even a far-off idea at this  
8 point.

9 Q. And who did you send it to?

10 A. That was my sister.

11 Q. So Laraine Diaz is your sister?

12 A. Correct.

13 Q. And why were you sending it to your  
14 sister on July 25, 2015?

15 A. I just shared it with her just to  
16 share it.

17 Q. And you say: "Lawsuit isn't even a  
18 far-off idea at this point."

19 See that?

20 A. Uh-huh.

21 Q. And what lawsuit were you referring  
22 to?

23 A. I was referring to someone getting  
24 sick at Starbucks and Starbucks getting sued.

25 Q. I'm sorry, I didn't hear you. Could



1 PAUL D'AURIA

2 you repeat that?

3 A. I was referring to the possibility  
4 that Starbucks may get someone sick and they  
5 would be sued.

6 Q. By whom?

7 A. Whoever was basically standing  
8 underneath those air vents.

9 Q. Did you seek any counsel in 2015, any  
10 attorney representation?

11 A. No, I did not.

12 Q. What does Laraine Diaz do for a  
13 living?

14 A. She works for an Italian bank in New  
15 York City handling trades, I believe.

16 Q. And what's her job title?

17 A. Her exact job title, I don't know.

18 Q. And were you sending her pictures of  
19 pest strips that you saw in the restaurants --

20 MR. GRAFF: Objection.

21 Q. -- or any stores?

22 MR. GRAFF: Objection.

23 A. At Starbucks, yeah. At Starbucks,  
24 this one, yeah.

25 MR. WEBER: Okay, next exhibit.

1 PAUL D'AURIA

2 (D'auria Exhibit No. 28 was marked for  
3 identification.)

4 MR. GRAFF: While we're switching,  
5 Michael, I can also confirm that the  
6 prior exhibit, Exhibit 26, was produced  
7 by plaintiffs, but it's for Ms. Shwiner.

8 MR. WEBER: Got it, okay.

9 BY MR. WEBER:

10 Q. Okay, let's look at 28.

11 A. Uh-huh. Okay.

12 Q. Tell me what this document is,  
13 please.

14 A. This is an email I sent to  
15 Ms. Shwiner concerning a store that was a huge  
16 problem. The store wasn't cleaned, literally,  
17 for years. And every time I told her, she  
18 would want more and more photos, meaning  
19 Margaret. Margaret at Starbucks. And every  
20 month, I would take the same 15 or 20 photos.  
21 And she just kept asking us to send her emails  
22 of the same thing. And I told Jill I've got  
23 years of emails. You know, they just keep  
24 pushing for more, so I told her I'm not taking  
25 any more photos --

1 PAUL D'AURIA

2 Q. And do you --

3 A. -- of this part.

4 Q. And do you know that Margaret was at  
5 store 7403?

6 A. Yeah, I'm pretty sure that's the  
7 store on 34th and 7th. I think they're now  
8 closed up, but pretty sure that's the store.  
9 It was one of the worst stores in the City.

10 Q. And do you know Margaret's last name?

11 A. It's K-I-S. I'm not sure how to  
12 pronounce it. I don't want to mispronounce it.

13 Q. Got it.

14 A. It could be Kis, Kis.

15 Q. Got it.

16 To the best of your recollection, are  
17 the attachments photos that you took of her  
18 store and sent to her?

19 MR. GRAFF: Objection.

20 A. Could you repeat that? I'm sorry, I  
21 didn't even hear the first part.

22 Q. You attached, looks like, photographs  
23 to the email you sent to Jill.

24 A. Yes.

25 Q. Do you recall sending them to

1 PAUL D'AURIA

2 Margaret?

3 A. Usually, yes, I'd send them almost  
4 all the time, or I would send them to Jill and  
5 Jill would put them in a report to Margaret.

6 MR. WEBER: Okay, next document.

7 (D'auria Exhibit No. 29 was marked for  
8 identification.)

9 BY MR. WEBER:

10 Q. Okay, again looks like 29 here. Let  
11 me know how many pages we have here.

12 A. I only see one photo.

13 Q. Okay. Can you tell me what it is?

14 A. It looks like --

15 MS. GOLDSTEIN: Sorry, let me add  
16 page 2.

17 Q. Can you tell me what these documents  
18 are?

19 A. The beginning -- let me go back.  
20 First one is a filthy floor photo. The second  
21 one is --

22 Q. Let me interrupt you. Are these  
23 photographs you took?

24 A. It looks like many of them, but not  
25 all.

1 PAUL D'AURIA

2 Q. Okay. Please continue. I'm sorry.

3 A. Okay. The second one is a photograph  
4 of a package sent to Starbucks of pesticides.  
5 The third one --

6 Q. I'm sorry, you said the one before  
7 that was a package of pesticides sent to  
8 Starbucks?

9 A. That Starbucks had delivered to them.

10 Q. And how do you know this again?

11 A. Because I saw the box, and they had  
12 pesticides on the desk.

13 Q. Okay. So walk me through this. By  
14 looking at this document, tell me what you  
15 understand was in the box.

16 A. In the box was, I believe, according  
17 to what was on the package, there were two  
18 bottles of CB-80 Contact Aerosol that was  
19 delivered to a store from a seller on Amazon.

20 Q. And who was it sent to?

21 A. The Starbucks store. I don't know  
22 the number offhand. I believe it was Grand  
23 Central Tower or -- I don't know the store  
24 number or address exactly.

25 Q. And how do you know that from looking

1 PAUL D'AURIA

2 at this package label?

3 A. Everything was sitting up top of the  
4 package.

5 Q. I didn't hear you.

6 A. Everything was sitting with the  
7 package, on top of the package, the contents of  
8 the box and the shipping receipt, I guess.

9 Q. And who was it addressed to?

10 A. Starbucks.

11 Q. Just the name of the store, not any  
12 individual?

13 A. Correct, I believe. Just the store  
14 name or the store number.

15 Q. And do you know who the manager was  
16 at that store on November 12, 2015?

17 A. No, I do not.

18 Q. And do you know what that aerosol  
19 product is?

20 A. It's an aerosol used for various  
21 insects.

22 Q. Used for what?

23 A. All kinds of insects.

24 Q. Okay. And do you know what are the  
25 prohibitions, if any, in using that aerosol in

1 PAUL D'AURIA

2 a store?

3 A. Prohibitions as far as -- you want  
4 the Department of Health prohibitions, or do  
5 you want general label prohibitions? There's  
6 several I could give you.

7 Q. Both.

8 A. Department of Health says that only  
9 pesticide applicators should be making  
10 applications in a store of pesticide.

11 As far as the labeling of that  
12 particular pesticide, everything in the store  
13 would have to be covered up. Any food items  
14 would have to be covered. Food contact  
15 surfaces would have to be covered. And you  
16 should be wearing at least a face respirator to  
17 apply that chemical.

18 Q. Are there any circumstances when this  
19 product could be used in a store?

20 MR. GRAFF: Objection.

21 Q. Go ahead.

22 A. By licensed individuals for the pests  
23 that are defined on the label.

24 Q. Right. So if there's a licensed  
25 technician, that product could be used in the

1 PAUL D'AURIA

2 store?

3 A. Could be used in a --

4 MR. GRAFF: Objection.

5 A. Could be used in the store by a  
6 licensed applicator by the New York State DEC.

7 MR. WEBER: Okay. All right, let's  
8 go to the next document.

9 (D'auria Exhibit No. 30 was marked for  
10 identification.)

11 BY MR. WEBER:

12 Q. Okay, what's this document?

13 A. That looks like some kind of an  
14 inspection for a Starbucks store. I don't know  
15 who made that. I'm not sure who gave that over  
16 in the document. Jill might have turned that  
17 over. It doesn't look familiar to me. I think  
18 that might have been a report she wrote up to  
19 Starbucks, but I'm not sure. And I don't  
20 remember seeing that.

21 Q. There's a sentence or a phrase that's  
22 underlined in red. Can you see that?

23 A. "Pesticide application not supervised  
24 by a certified applicator." Actually that says  
25 2008, I believe, so I -- I don't know what this



1 PAUL D'AURIA

2 is.

3 Q. Okay, let's go to the next page.

4 A. We didn't service Briarcliff Manor.

5 Q. Did you take this picture?

6 A. That, I believe I took that picture  
7 at -- I think that's Spring Street and Crosby  
8 in SoHo.

9 Q. And where is this location?

10 A. That's at the front counter  
11 underneath the bar.

12 Q. Okay, next picture.

13 A. This looks like a screenshot of a  
14 Starbucks inspection by the Board of Health.

15 Q. Did you take this picture?

16 A. I don't know if I might have taken  
17 the screenshot, but Jill may have put that date  
18 on there. I'm not sure.

19 Q. What was the current grade that the  
20 store received?

21 A. It says it was given an A.

22 Q. Okay, next page.

23 A. Also DOH inspection from 95 West  
24 Broadway.

25 Q. And the grade they received?

1 PAUL D'AURIA

2 A. An A.

3 Q. Can you read the sanitary violations  
4 on this document?

5 A. Let me just get it. "Filth flies, or  
6 food/refuse/sewage-associated flies," also  
7 known as FRSA, "flies present in facility food  
8 and/or nonfood areas. Filth flies include  
9 flies, little house flies, blowflies, bottle  
10 flies, and flesh flies.  
11 Food/sewage/refuse-associated flies include  
12 fruit flies, drain flies, and foreign flies.  
13 Food contact surface not properly washed,  
14 rinsed, and sanitized after each use and  
15 following any activity when contamination may  
16 have occurred. Facility not vermin proof."  
17 That's it.

18 Q. Okay, next page. Tell me what this  
19 is.

20 A. That's a pest strip on the floor of a  
21 store at the counter.

22 Q. Which store?

23 A. Could be any. This was associated  
24 with an email I sent.

25 Q. Okay, next picture.

1 PAUL D'AURIA

2 A. That's my -- that's my license for  
3 the New York State DEC.

4 Q. Okay. And that was -- that expires.  
5 Got it, okay. Next?

6 A. That looks like a photo in an email  
7 from myself to Ms. Shwiner in 2014.

8 Q. What were you saying to her?

9 MR. GRAFF: Would it be possible to  
10 rotate the document so that he can see  
11 the text horizontally?

12 THE WITNESS: I might be able to do  
13 it. I'm sorry. I got it.

14 A. Yeah, it's a DDVP strip in a store in  
15 the East Village, and I wrote: "Fly caught at  
16 dirty bar drain with a DDVP strip nearby."

17 Q. Okay, next page.

18 A. Those are two pest strips at  
19 Port Authority on the floor of the counter.

20 Q. And that was March 1 of 2017?

21 A. Yes, correct.

22 Q. And did you -- strike that.

23 What does that indicate you do with  
24 that picture?

25 A. I sent that to either --

1 PAUL D'AURIA

2 (Reporter clarification.)

3 A. I sent that to either Ms. Shwiner at  
4 AVP or to Margaret or whoever the facilities  
5 manager was for that store.

6 Q. You don't remember for sure which  
7 one; correct?

8 A. I don't remember for sure which one,  
9 no.

10 Q. Next page.

11 A. That is a screenshot of a Board of  
12 Health inspection at Starbucks at Kings Plaza  
13 in Brooklyn.

14 Q. And did you obtain this document?

15 A. I may have, or Jill. One of us put  
16 the date and the location on there in red. It  
17 may have been Jill.

18 Q. Do you know if you did anything with  
19 this document?

20 A. I may have sent it through our  
21 attorney, or Jill sent it into the attorney,  
22 but I think this is Jill's.

23 Q. Okay, next document. And what's that  
24 page say?

25 A. This looks like an inspection from a

1 PAUL D'AURIA

2 Starbucks in Bronxville, New York, from 2010  
3 and 2012.

4 Q. And what, if anything, did you do  
5 with this document when you got it?

6 A. I don't -- I think Jill probably sent  
7 this to our attorney.

8 Q. Okay, next page.

9 A. I think that's it, 12.

10 Q. Is that it?

11 MS. GOLDSTEIN: Yes.

12 MR. WEBER: Okay, next document.

13 Q. Okay, this is Exhibit 30.

14 A. Do you want me to scan through all  
15 16?

16 Q. I can't see the document. Here we  
17 go. Okay, can you identify this document?

18 A. The first page is -- it's blank for  
19 me. 1 of 16 is blank. I don't see anything.

20 MR. WEBER: Maybe Rebecca can go to  
21 the second page.

22 MS. GOLDSTEIN: Yeah, the first  
23 page is blank. I just gave the witness  
24 control so you can scroll through the  
25 remainder of this exhibit.

1 PAUL D'AURIA

2 A. Second one is a no-pest strip inside  
3 of a pastry case. There's some bags. Number 3  
4 looks like -- number 3 looks like an old  
5 inspection at Starbucks from maybe the  
6 Department of Health. I'm not sure.

7 Q. Okay, next page. Did you take that  
8 picture?

9 A. Yes, I did.

10 Q. Where and when?

11 A. That was a no-pest strip taken at  
12 23rd Street and Third Avenue. That's a  
13 refrigerator, and I think they just call that a  
14 pull-out. Underneath the bar there's a no-pest  
15 strip zip tie.

16 (Reporter clarification.)

17 A. There's a no-pest strip zip tie to  
18 the back of the refrigerator.

19 Q. Next page, same question. Can you  
20 identify that, what that is?

21 A. That looks like another Department of  
22 Health inspection for a store on First Avenue.

23 Q. And what, if anything, did you do  
24 with that document when you got it?

25 A. I think Jill put the date on this one

1 PAUL D'AURIA

2 and the location.

3 MR. GRAFF: Please don't guess if  
4 you're not sure.

5 A. Yeah, I'm not sure. Yeah, I didn't  
6 put the red lettering on there, so I think  
7 anything with that is -- Jill was just  
8 highlighting that for our attorney.

9 Q. Okay. Next document or next page.

10 A. Also another Health inspection report  
11 for a store on First Avenue, it looks like.

12 Q. Next page. Do you know what that is?

13 A. Looks like dead flies inside of a  
14 pastry case.

15 Q. So would this have been after hours,  
16 after the restaurant was closed?

17 A. Yes, when I was in the stores, yes.

18 Q. Do you know if Starbucks had a  
19 protocol of cleaning all their cases before the  
20 start of every day?

21 MR. GRAFF: Objection.

22 A. I don't know what their regular  
23 maintenance schedule was for that.

24 Q. And do you know which store this  
25 picture was taken at?

1 PAUL D'AURIA

2 A. This looks like the store where I  
3 used the vacuum to clean up those dead flies.

4 Q. How can you tell from this picture?

5 A. Because the flies were dead. And I  
6 looked further to see flies that were flying  
7 around. So I got a vacuum and I vacuumed up  
8 the live ones and the dead ones.

9 Q. Is this the only Starbucks store you  
10 recall having flies at?

11 MR. GRAFF: Objection.

12 A. No. There were many flies, many  
13 stores.

14 Q. But this one, you remember?

15 A. I remember this one because I think  
16 this is the one where I found the DDVP strips  
17 actually in the case itself.

18 Q. Okay, next picture. Where was the  
19 picture taken? Where and when?

20 A. That looks like something that was  
21 taken in probably a Penn Station store on top  
22 of the cabinets behind the counter.

23 Q. Anything --

24 A. Sorry.

25 Q. No, go ahead. I'm sorry.



1 PAUL D'AURIA

2 A. That red thing behind the pest strip  
3 is a fly stick that we would put out to catch  
4 flies that might be flying around and landing  
5 on the area at night.

6 Q. And when did you take this picture?

7 A. Sometime between 2013 and 2018.  
8 Can't be exact.

9 Q. Okay. And during that time period,  
10 do you know what you did with it after you took  
11 it?

12 A. Probably sent it in to either Jill or  
13 somebody at facilities.

14 Q. You don't recall?

15 MR. GRAFF: Thank you.

16 A. Yeah, I don't recall exactly.

17 Q. Okay, next picture. Can you tell me  
18 what that is?

19 A. Let me flip it over. That is the box  
20 that we, I believe, spoke about earlier, the  
21 photo that was delivered to Starbucks on East  
22 45th Street with pesticides.

23 Q. Have you ever heard of Pest Control  
24 Pros?

25 A. No.

1 PAUL D'AURIA

2 MR. GRAFF: Objection.

3 A. I think it's some -- somebody, an  
4 Amazon seller.

5 Q. All right. Next picture.

6 A. That's the --

7 Q. What is that?

8 A. That's the pastry case where I found  
9 the pest strip underneath the bagel rack.

10 Q. Is that your hand in the picture?

11 A. With the arm and glove, that's me,  
12 yes.

13 Q. And what is that? Was that a case, a  
14 refrigerated case that you're in?

15 A. That's the pastry case that's facing  
16 outward towards the customer area. I'm behind  
17 the counter.

18 Q. And this is after hours; correct?

19 A. Correct.

20 Q. Okay. And again, what, if anything,  
21 did you do with this picture when you took it?

22 A. I believe we sent the picture to the  
23 facilities manager.

24 Q. And who was that?

25 A. I forget who the facility manager was

1 PAUL D'AURIA

2 for this store.

3 Q. And you don't know exactly what year  
4 this was; correct?

5 A. No. Sometime after 2013.

6 Q. Okay.

7 A. Might have been 2015 or '16.

8 Q. Next picture.

9 A. That's a photo of -- photo of behind  
10 the counter at Starbucks near the condiments.  
11 There are two pest strips in the photo near the  
12 food. Three, I'm sorry, three --

13 Q. When was it --

14 A. -- pest strips.

15 Q. When was it taken?

16 A. 2015 or 2016, but I'm not positive.

17 Q. And what, if anything, did you do  
18 with it when you took it?

19 A. I took a lot of photos in that store,  
20 and I know we -- pretty sure Jill emailed that  
21 particular store to facilities because I found  
22 about 15 of those in the store that night.

23 Q. Next picture.

24 A. That's an email from me to Alloy at  
25 facilities. I carbon copied Ms. Shwiner. I

1 PAUL D'AURIA

2 said: "Hi, Alloy. I found some roaches at bar  
3 area and back line. They need to clean a bit  
4 more." Typo. "Also have pest strips sitting  
5 at the CBS counter."

6 Q. What's CBS?

7 A. CBS is, I believe, the cold beverage  
8 station for Starbucks.

9 Q. Okay. Did Alloy respond to you in  
10 connection with this email?

11 A. He may have responded to me or Jill.  
12 I don't remember exactly.

13 Q. Next picture.

14 A. Looks like it's a Department of  
15 Health inspection for store at Union Square  
16 West.

17 Q. Next picture.

18 A. This is a Department of Health  
19 inspection for a store in Queens.

20 Q. What, if anything, did you do with  
21 this document when you received it?

22 MR. GRAFF: Objection.

23 A. If I took a screenshot of it, I might  
24 have sent it to my attorney, but I don't  
25 remember this one. We didn't service Queens,

1 PAUL D'AURIA

2 so I don't know. I don't know why.

3 Q. Next picture.

4 A. This is a Health inspection at 330  
5 Madison for pesticide use. Either me or Jill  
6 did that. I don't remember who put the --

7 Q. Next picture.

8 A. And this is a picture, I believe, of  
9 the same box from earlier in the set.

10 Q. Okay. Next picture.

11 A. I think that's it.

12 THE REPORTER: If we could pause  
13 just a moment.

14 (Recess taken.)

15 MR. WEBER: Any more documents,  
16 Rebecca?

17 MS. GOLDSTEIN: We do have a few  
18 more.

19 MR. WEBER: Okay.

20 (D'auria Exhibit No. 31 was marked for  
21 identification.)

22 BY MR. WEBER:

23 Q. Let's look at Exhibit 31, if you  
24 would. Tell me what that is.

25 A. It's an email from myself to

1 PAUL D'AURIA

2 Ms. Shwiner. Looks like I was telling her the  
3 floors weren't being cleaned properly and they  
4 were buying cans of Raid --

5 Q. What location --

6 A. -- for --

7 Q. -- was this?

8 (Reporter clarification.)

9 A. West -- 7403? I'm not sure. I think  
10 that's 35th Street, 34th and 7th, but I'm not  
11 positive.

12 Q. Okay. You say: "Worse than last  
13 week. They buy bleach and fly spray. No fan  
14 or cleaning. My patience gone."

15 What are you referring to?

16 A. They weren't cleaning the floors. We  
17 had told them that a good opportunity after  
18 cleaning the floors was to buy a floor fan to  
19 dry out the cracks and crevices in the tiles,  
20 and that would help stop the breeding of the  
21 fruit flies.

22 Q. And what, if anything, did you do  
23 with this document other than send it to Jill?

24 A. That's all I did was send that to  
25 Jill.

1 PAUL D'AURIA

2 Q. Okay. Next page or document. What  
3 do we have here?

4 A. That looks like the aerosol cans  
5 from -- the aerosol receipt from the pesticides  
6 earlier in the last exhibit.

7 Q. Next page. What do we have here?

8 A. That's a picture of a fly strip, a  
9 pest strip on a desk at 50 Lexington Avenue on  
10 the manager's desk, I believe.

11 Q. And who was the manager there?

12 A. I do not know.

13 Q. And do you know who put the pest  
14 strip there?

15 A. No, I do not.

16 Q. And when was this?

17 A. I couldn't tell you. Not sure what  
18 date.

19 Q. And what, if anything, did you do  
20 with this photograph?

21 A. I gave it to Jill.

22 Q. Okay, next page. What do we have  
23 here?

24 A. Some kind of inspection for  
25 Starbucks, which I'm not familiar with it.

1 PAUL D'AURIA

2 Q. Okay, next page.

3 A. I believe that's the same photo from  
4 a few pages back.

5 Q. Got it. Okay, what do we have here?

6 A. Looks like an inspection from  
7 Starbucks.

8 Q. What, if anything, did you do with  
9 that document?

10 A. I don't -- I don't recall seeing that  
11 document.

12 Q. Okay. Next page. what is that?

13 A. That is a manager's desk, and there's  
14 a email -- let me just blow it up. I can't  
15 read that. That's an email from me to  
16 Ms. Shwiner about the 50 Lexington Avenue  
17 store.

18 And I wrote: "I didn't notice the  
19 DDVP strip until after I sat down and wrote out  
20 the work order."

21 And the photo shows my receipt on the  
22 desk and a pest strip sitting in the corner of  
23 the desk.

24 Q. And was this a private office?

25 A. No, this is the manager's office in



1 PAUL D'AURIA

2 the open back room.

3 Q. And you were authorized to enter the  
4 office?

5 A. Yes, I was.

6 Q. Who gave the authorization?

7 A. Starbucks.

8 Q. Okay. And did you ask the manager  
9 how the pest strip got there?

10 A. No. I never saw the manager.

11 Q. Did you ask on your report of how the  
12 pest strip got there?

13 A. No, I did not.

14 Q. Did you ever follow up with anyone at  
15 Starbucks as to why and how that pest strip got  
16 there?

17 A. Not that particular strip, no.

18 Q. Did you follow up with anyone at AVP  
19 on how that pest strip got there?

20 A. I emailed to Jill, and I -- as far as  
21 I know, she would always email my concerns to  
22 Starbucks, someone at Starbucks.

23 Q. Okay, next page.

24 A. That's a pest strip on a counter, an  
25 email that I showed my sister that's sitting on

1 PAUL D'AURIA

2 the bar near an open mocha container.

3 Q. Is that the sister you referred to  
4 before?

5 A. Yes, same sister.

6 Q. Laraine?

7 A. Correct.

8 Q. And why did you send it to her?

9 A. I would tell her about it, and every  
10 once in a while I would show her a picture.

11 Q. Okay, next picture.

12 A. I'm not seeing anything on page 9.

13 MS. GOLDSTEIN: That page is a  
14 blank.

15 MR. GRAFF: I'm showing blanks  
16 until page 14.

17 MR. WEBER: All right, there we go.

18 Q. Identify this document, or this page.

19 A. I'm not -- I'm not familiar with  
20 that. That's a document from Mr. Fox's time at  
21 Starbucks.

22 Q. How did you get this document?

23 A. I'm not aware of this document.

24 Q. Did you ever see it before?

25 A. Never.

1 PAUL D'AURIA

2 Q. Okay, next document. Ever see this  
3 one?

4 A. No.

5 Q. Next document or page. What's this?  
6 Ever see it before?

7 A. Never, no.

8 Q. Who's in this picture?

9 A. That looks like Rafael.

10 Q. Which one is Rafael?

11 A. I believe he's the one in the dark  
12 shirt holding a Starbucks bag.

13 Q. Know anybody else in the picture?

14 A. No, I do not.

15 Q. Okay, next picture. Same question.

16 A. Just looks like Rafael.

17 Q. Okay, next picture.

18 A. That's it.

19 MR. WEBER: Let me ask you a  
20 question. Here we go. Let me show you  
21 Exhibit 32 and ask you if you can  
22 identify it.

23 (D'auria Exhibit No. 32 was marked for  
24 identification.)

25 MR. GRAFF: This appears to be 15

1 PAUL D'AURIA

2 pages of text. Is there anywhere you  
3 want him to start?

4 BY MR. WEBER:

5 Q. Well, let me just ask, did you  
6 receive any of these pages?

7 A. Page 1, I don't think I've ever  
8 received that. Go to the next one. No, I  
9 don't think I received that.

10 Q. Okay.

11 A. Want me to just go through each one?

12 Q. Yeah, go through quickly and see if  
13 you received any of them.

14 A. Okay. These were not emails that I  
15 was copied on. These were about a store which  
16 had a phorid fly problem, I believe, that was  
17 originated in the French drains.

18 MR. WEBER: Okay. We will go to  
19 the next document, then.

20 (D'auria Exhibit No. 33 was marked for  
21 identification.)

22 BY MR. WEBER:

23 Q. Showing you Exhibit 33, I'll ask you  
24 if you've ever seen this document.

25 A. No, I've never seen this.

1 PAUL D'AURIA

2 MR. WEBER: Okay. Next document.

3 (D'auria Exhibit No. 34 was marked for  
4 identification.)

5 BY MR. WEBER:

6 Q. All right, let's look at this  
7 Exhibit 34. Have you seen this document  
8 before?

9 A. I believe I saw this. Maybe they  
10 forwarded it to Jill or Jill showed me an email  
11 about this particular situation.

12 Q. And what, if anything, did you do  
13 when Jill brought it to your attention?

14 A. I told her that the employee who did  
15 that was totally wrong, and I believe she  
16 subsequently fired him.

17 Q. Did you ever leave pesticides at any  
18 Starbucks store for any use by anybody else?

19 A. Not me. No, I never did.

20 Q. Do you know of anybody who did?

21 A. Other than this one person who worked  
22 for us for a short time, that was the only time  
23 that I know of.

24 Q. Who was that?

25 A. I think his name was Mark or Marco.

1 PAUL D'AURIA

2 Q. Last name?

3 A. I don't know what his last name is.

4 Q. Okay, next document.

5 MS. GOLDSTEIN: That's all the  
6 documents.

7 Q. Mr. D'auria, have you given us, to  
8 your best recollection, all the communications  
9 with Starbucks regarding use of pest strips at  
10 the stores?

11 A. Yes, I believe I've given everything.  
12 I've searched everywhere all my devices,  
13 drives.

14 Q. And your testimony today is your best  
15 recollection of all the times that you  
16 communicated with Starbucks about pest strips  
17 in the stores?

18 A. Yes. Was it included? May have been  
19 deleted over the years, but I've given  
20 everything that I could find.

21 Q. Okay. And when you alerted someone  
22 at Starbucks regarding pest strips, did you  
23 also alert someone at AVP regarding the pest  
24 strips in a particular store?

25 A. Yes.

1 PAUL D'AURIA

2 Q. And you've testified today about all  
3 those communications?

4 A. Yes.

5 Q. Were you aware of any actions  
6 Starbucks took once they received  
7 communications from you about pest strips in  
8 the stores?

9 MR. GRAFF: Objection.

10 A. I don't know of any actual actions  
11 that were taken. Besides an email or two sent  
12 out, I don't think any actual action was taken  
13 to stop this.

14 Q. Well, were you aware of email sent  
15 out from Starbucks managers to store managers?

16 MR. GRAFF: Objection.

17 A. Sent to store managers?

18 Q. If you know.

19 A. I wouldn't know. I wouldn't know.

20 Q. Did you ever see any communications  
21 from Starbucks managers to store managers  
22 regarding the use of pest strips?

23 A. I believe there was one where someone  
24 said FYI. I think that was in one district,  
25 and that was --

1 PAUL D'AURIA

2 Q. Are you aware of any action -- I'm  
3 sorry.

4 A. No, I think that was the only one I  
5 recalled.

6 Q. Are you aware of any actions that  
7 Starbucks took to prevent the use of pest  
8 strips in the stores?

9 A. I'm not aware of any actions to  
10 prevent that, no.

11 Q. Let me ask you this question. When  
12 did you first meet Rafael Fox?

13 A. In April of 2019.

14 Q. And how did you meet him?

15 A. We met at a meeting --

16 Q. And who --

17 A. -- at our attorney's office.

18 Q. And who arranged the meeting?

19 A. Our attorney.

20 Q. And how did you get to meet your  
21 attorney?

22 A. You mean in person, or the first  
23 contact?

24 Q. How did you learn of your attorney?  
25 How did you first become aware of



1 PAUL D'AURIA

2 him?

3 A. I was first sent an email by  
4 Mr. Graff in November of 2018.

5 Q. And how did Mr. Graff become aware of  
6 you?

7 A. I believe they found a video I had  
8 posted on YouTube of pest strips in a  
9 Starbucks.

10 Q. And this is in April of '18?

11 A. No, he -- the email that Mr. Graff  
12 sent me was in November of 2018.

13 Q. Got it, okay. And what did he say in  
14 that email?

15 A. He asked me if I was the person that  
16 had posted the video, and he was representing a  
17 client and wanted to know if he could speak  
18 with me.

19 Q. Okay. What did you say?

20 A. I told him that it was me who posted  
21 the video, and I was in the middle of moving  
22 out of New York and I would contact him in a  
23 few days.

24 Q. And did you contact him a few days  
25 later?

1 PAUL D'AURIA

2 A. Yes.

3 Q. How did you contact him?

4 A. I believe we spoke on the phone.

5 Q. And what did you say to him and what  
6 did he say to you?

7 A. Just wanted to know about DDVP.

8 Q. Tell me the whole conversation.

9 A. I wouldn't remember the whole  
10 conversation now.

11 Q. Give me the overview.

12 A. He wanted to know basically the  
13 amount of DDVP that I encountered. If, you  
14 know, what his client was telling him was  
15 valid. Wanted to know if anything happened to  
16 me in Starbucks concerning pesticides.

17 Q. And What'd you tell him?

18 A. I confirmed what his client told him,  
19 and I told him my story.

20 Q. Tell me what you said. When you say  
21 your story, what did you say?

22 A. I told him I was exposed to these  
23 chemicals for years. I told him I was  
24 basically walking into stores and the bug bombs  
25 or foggers were going off, and it was --

1 PAUL D'AURIA

2 happened on, you know, a number of occasions.

3 Q. And how long did that telephone  
4 conversation take?

5 A. I don't remember. Probably at least  
6 half an hour.

7 Q. And you mentioned a couple things  
8 that you said to him. What else did you say to  
9 him?

10 A. I don't remember.

11 Q. What'd he say to you?

12 A. Basically asking me about my time  
13 servicing Starbucks and the chemicals and  
14 pesticides that I encountered when I was  
15 employed at Starbucks.

16 Q. And what pesticides did you tell him  
17 you encountered?

18 A. The no-pest strips, various other  
19 store-bought chemicals like Raid, Hot Shot,  
20 aerosol cans. The CB-80 was also used. Mostly  
21 over-the-counter stuff like Raid.

22 Q. You say mostly over-the-counter  
23 stuff. Is there any materials that you  
24 mentioned to him that was not over the counter?

25 A. CB-80 isn't really an

1 PAUL D'AURIA

2 over-the-counter product. You can't walk into  
3 a Home Depot and order it. You can't walk into  
4 a hardware store. Usually, you have to buy  
5 those by -- buy those from a licensed pesticide  
6 salesperson or company.

7 Q. Where did you see the CB-80?

8 A. CB-80 I saw in a number of stores in  
9 the City.

10 Q. How many?

11 A. Many. Too many to count. I couldn't  
12 give you a number.

13 Q. Approximately how many?

14 A. Probably over 25 to 50 stores.

15 Q. Over the years that you worked at the  
16 Starbucks stores? And --

17 A. Right.

18 Q. Did you ever mention to anybody that  
19 you saw CB-80 in the stores?

20 A. Yes.

21 Q. Would that be in your email  
22 communications that we've seen today?

23 A. I believe somewhere, yeah, we've  
24 emailed Starbucks with that information.

25 Q. I want to be sure I understand this.

1 PAUL D'AURIA

2 Have you given us all communications that you  
3 have, that you made with Starbucks or AVP  
4 concerning chemicals in their stores?

5 A. Yes.

6 Q. Okay. All right, so what else did  
7 you say to your attorney in November 2018  
8 regarding the chemicals that you came across?

9 MR. GRAFF: And to be clear, he was  
10 not -- I was not his attorney at the  
11 time in question.

12 MR. WEBER: Correct, correct.

13 A. Basically, that's all I remember,  
14 and --

15 Q. Okay.

16 A. And whatever questions he had for me.

17 Q. And what other questions did he have  
18 for you?

19 A. I said whatever others he had, I  
20 don't remember, but mostly involved --

21 Q. What was the --

22 A. -- chemicals.

23 Q. What was the next communication you  
24 had with Mr. Graff?

25 A. I don't remember. He probably should

1 PAUL D'AURIA

2 have called --

3 Q. Approximately.

4 A. -- probably within a couple of weeks.

5 I don't know. I don't --

6 Q. Did he call you or did --

7 A. -- remember.

8 Q. Did he call you or did you call him?

9 A. He probably called me.

10 Q. And what was the discussion?

11 A. I don't remember, truthfully. Don't  
12 remember what we talked about.

13 Q. Can you give me the general substance  
14 of the call?

15 A. Probably Starbucks and pesticides.

16 Q. So that was a couple -- what, is that  
17 into December 2018?

18 A. Yes, November, December, then from  
19 there on.

20 Q. What was the next communication you  
21 had with Mr. Graff?

22 A. Don't remember. I don't remember.

23 Q. Did you have any emails with him in  
24 November, December 2018?

25 A. Whatever we had, we turned over.

1 PAUL D'AURIA

2 Q. Okay. Did there come a time when you  
3 retained him?

4 A. Yes.

5 Q. When was that?

6 A. I don't have the specific date.

7 Q. What year?

8 A. I believe it was the end of 2018,  
9 sometime in --

10 Q. Did you -- did you meet with him when  
11 you retained him?

12 A. No.

13 Q. Over the phone?

14 A. Yes.

15 Q. Did he send you a retainer or  
16 engagement letter?

17 A. Yes.

18 Q. And what's your financial arrangement  
19 with him?

20 A. Contingency arrangement.

21 Q. I'm sorry, I didn't hear you.

22 A. A contingency arrangement.

23 Q. And what's the contingency?

24 A. I believe it's 35 or 40 percent.

25 Q. Okay. And when you were retained by

1 PAUL D'AURIA

2 him, did anyone else retain Mr. Graff at that  
3 time?

4 A. I believe only Rafael Fox was there  
5 with me at the time on a retainer.

6 Q. Okay. And did you bring in Jill  
7 Shwiner into the case?

8 A. Ari Graff asked me if I could get in  
9 touch with Jill and -- because she might have  
10 more information.

11 MR. GRAFF: I'd like to caution you  
12 that if this happened after you signed  
13 the retainer agreement, then that is an  
14 attorney-client communication, so try to  
15 be careful on the topic.

16 THE WITNESS: Okay. Could you  
17 repeat the question?

18 MR. WEBER: Sure.

19 Q. Did you reach out to Jill to ask her  
20 if she wanted to join the lawsuit?

21 A. I never asked her that, no.

22 Q. Do you know how Jill became a  
23 plaintiff in your lawsuit?

24 A. I don't know the conversation they  
25 had, so I couldn't answer that.



1 PAUL D'AURIA

2 Q. Were you in touch with Jill after you  
3 left AVP?

4 A. No, not for six months.

5 Q. When did you leave AVP?

6 A. Oh, sometime mid June of 2018.

7 Q. And why did you leave?

8 A. Basically, we lost the account and  
9 there was no work for me.

10 Q. When you say they lost the account,  
11 what account?

12 A. Starbucks account.

13 Q. Did they still have the Stock  
14 Exchange and Methodist Hospital?

15 A. No. The American Stock Exchange, I  
16 believe, was sold and closed. New York  
17 Methodist was being used -- being serviced by  
18 another company.

19 Q. Okay. So they lost all three  
20 accounts in the middle of 2018?

21 A. No, that was previous. Previous  
22 years, those accounts were terminated. The  
23 Stock Exchange was sold, I think, in 2007  
24 maybe. And Methodist Hospital, I think, you  
25 know, that was a bidding account and I believe

1 PAUL D'AURIA

2 another company won the contract.

3 Q. In 2017 and '18, what companies were  
4 you personally working at or for?

5 A. In 2017, I worked for AVP Pest  
6 Control.

7 Q. No, what I mean is where did AVP  
8 assign you in 2017 and 2018?

9 A. Starbucks.

10 Q. Anywhere else?

11 A. Occasionally -- occasionally, I would  
12 do a service for Walgreens or Duane Reade if  
13 they needed help.

14 Q. Did you ever see any pest strips in  
15 Walgreens?

16 A. I never did, no.

17 Q. So AVP lost the Starbucks account in  
18 mid 2018; is that right?

19 A. That's correct.

20 Q. Is that when they closed the  
21 business?

22 A. Not that I know of. I left in June  
23 of 2018. I don't know exactly what happened  
24 after I left.

25 Q. And did anybody tell you why AVP lost

PAUL D'AURIA

the Starbucks account?

A. I believe that they were taking away a lot of stores and giving them to another company, and I think they were going to give us like 20 stores maybe. And I said basically, you know, nothing I can do with that. I can't really work full time, so I think they just said, you know, we -- we can't keep Paul on, so I -- I was gone. I don't know exactly what happened after that.

Q. Do you know when Jill left?

A. Truthfully, I don't know.

Q. And where did you work after AVP?

A. After AVP, I started putting in applications, a City job, couple of other companies. I was engaged at the time, and then I decided I was going to move to Pennsylvania, and I didn't work anymore in New York.

Q. Did you stop looking for work in New York after June '18?

A. I stopped looking probably September, October. A lot of companies have their summer hires already done. By that time, there's really not a lot of openings, especially in the

PAUL D'AURIA

fall.

Q. When did you -- got it. When did you first start looking for work after June '18?

A. Within a week.

Q. And where did you look for work?

A. I checked a lot on the internet. I was looking at a lot of City postings for different jobs not related to pest control. I was looking for a lot of City jobs. Couple of pest control jobs I put in for.

Q. What's the first job or work you had after June '18?

A. The first work I had, I would have -- in Pennsylvania, I started working for a medical alarm installation company.

Q. When?

A. That was June of 2019.

Q. Between June 2018 and June 2019 were you employed?

A. From 2018 to 2019? No.

Q. And how did you live?

A. On --

MR. GRAFF: Objection.

A. On my savings.

1 PAUL D'AURIA

2 Q. What income?

3 A. Yeah. On savings.

4 Q. Savings?

5 A. Yeah.

6 Q. And in June '19, where did you begin  
7 working?

8 A. A company in Pennsylvania called  
9 MedScope.

10 Q. And that's the medical installation  
11 company?

12 A. Correct.

13 Q. How long did you work there?

14 A. I worked there up until -- from June  
15 of 2019 to March of this year, when the COVID  
16 virus started.

17 Q. What was your job at the medical  
18 alarm installation company?

19 A. Basically, I would take the different  
20 alarm systems that the local counties would  
21 give to elderly and disabled people and I'd go  
22 out to their homes and show them how to  
23 operate, how to test the equipment should they  
24 ever need it.

25 Q. And what was your salary?

1 PAUL D'AURIA

2 A. Salary went by the amount of miles  
3 that I drove.

4 Q. Approximately how much did you earn?

5 A. Oh, like per day? Per week?

6 Q. Either.

7 A. Oh, sometimes 200, 2- to \$300 a week.

8 Q. Okay. And since March 2020, have you  
9 been working?

10 A. No.

11 Q. And what form of income, if any, have  
12 you been receiving?

13 A. I got unemployment after I stopped  
14 working because of the virus, and I collected  
15 unemployment for maybe four weeks, five weeks.

16 And then I received my 9/11 Victims  
17 Compensation Fund, and I --

18 Q. Is that the 225?

19 A. Yes, right.

20 Q. And when did you receive that?

21 A. I think it was July 3.

22 Q. Of this year?

23 A. Correct.

24 Q. What is your claim for damages in  
25 this case?

1 PAUL D'AURIA

2 MR. GRAFF: Objection.

3 Q. What are you claiming?

4 A. Could you rephrase that? What do you  
5 mean, what am I claiming?

6 Q. Yeah. You know, what are you seeking  
7 from Starbucks in this case by way of damages?

8 What do you want to recover?

9 What's your request for damages?

10 A. The maximum that --

11 MR. GRAFF: Objection.

12 A. The maximum that --

13 Q. Let me ask you a different way. What  
14 damages did you suffer?

15 What have you suffered as a result of  
16 Starbucks' actions?

17 A. I've suffered a lot of emotional  
18 distress. I was always being exposed to  
19 chemicals that -- pretty unexpected. I had  
20 numerous occasions of pesticides. I would walk  
21 into vapors when I wasn't prepared for it. I  
22 was walking in on, you know, chemicals dripping  
23 from the ceiling at times. I suffered  
24 emotionally. I was worried about people's  
25 health. I was worried about my own health, the

1 PAUL D'AURIA

2 long-term effects of chemicals. I would worry  
3 that if anybody ever sued Starbucks, I would --  
4 you know, could lose my license or my  
5 livelihood over the course of all those years  
6 of those incidents.

7 Q. During the times that you were  
8 exposed to pest strips, did you see any doctors  
9 because of that exposure?

10 A. No.

11 Q. Did you see any kind of healthcare  
12 professional as a result of your exposure to  
13 pest strips?

14 A. No.

15 Q. Did you see any psychologist or  
16 psychiatrist or mental health worker as a  
17 result of your --

18 A. No.

19 Q. -- exposure to pest strips or any  
20 similar products?

21 A. No, I did not.

22 Q. Do you take any medicines,  
23 prescription or over the counter, as a result  
24 of your exposure to any chemicals while working  
25 for Starbucks?



1 PAUL D'AURIA

2 A. No.

3 Q. Have you been examined by a physician  
4 over the last five years?

5 A. Yes.

6 Q. What doctor?

7 A. For -- it would depend on what you  
8 want to know, what health. I've seen a lot of  
9 doctors because of my lymphoma.

10 Q. Okay. Not related to your lymphoma.  
11 Have you seen any doctors unrelated to your  
12 lymphoma?

13 A. A regular family physician for --

14 Q. Just for checkups?

15 A. -- general medical -- yes.

16 Q. And which doctors did you see as your  
17 general internist?

18 A. I saw regular doctors in Staten  
19 Island, and I have a regular doctor here in  
20 Pennsylvania.

21 Q. And other than your lymphoma, was  
22 there a -- did they examine you and found that  
23 you were in reasonably good health?

24 A. Yes.

25 MR. GRAFF: Objection.

1 PAUL D'AURIA

2 Q. What'd you answer?

3 A. Yes.

4 Q. As a result of the conditions that  
5 you claim you experienced when you were at  
6 Starbucks, tell me what effect those -- that  
7 exposure had on you. What was the impact?

8 A. The impact was I was generally afraid  
9 of what was happening at the time in Starbucks.  
10 Just blatant disregard for safety by Starbucks  
11 for myself, their own employees, customers,  
12 other vendors. I worried about -- like I said,  
13 I worried about losing my license should anyone  
14 ever try to blame me for pesticides that  
15 Starbucks was applying.

16 Q. Anything else?

17 A. Worried about my livelihood, worried  
18 about losing my job.

19 Q. Right. And did that have any --  
20 other than worrying, did those concerns have  
21 any other impact on your life?

22 A. Those concerns? I would be extra  
23 careful when I worked, more than usual. After  
24 I had my lymphoma, I was sort of in a  
25 heightened state of alert, knowing that

1 PAUL D'AURIA

2 chemicals in the long run or down the road  
3 could have a chronic effect on my health.

4 Q. And when did you first get lymphoma?

5 A. I was diagnosed with lymphoma in  
6 February of 2017.

7 Q. And did your doctors advise you that  
8 that lymphoma was a result of the 9/11  
9 exposure?

10 A. They did not, no.

11 Q. Did anybody tell you what the cause  
12 of the lymphoma was?

13 A. Of the doctors that I saw, they did  
14 not, no. The only people that said it was due  
15 to 9/11 was the 9/11 health program because of  
16 my exposure time near the World Trade Center.

17 Q. And how long did you work after 9/11  
18 in lower Manhattan?

19 A. I continued working regularly in  
20 lower Manhattan as pest control from 2001 all  
21 the way up to 2009.

22 Q. And where did you physically work  
23 during those years?

24 A. I worked -- after 9/11, I worked for  
25 Starbucks during the downtown locations. I

1 PAUL D'AURIA

2 also worked at the American Stock Exchange two  
3 days a week, which is about a block and a half  
4 from the World Trade Center.

5 Q. Okay. Any other effects on your  
6 mental or physical health while working at  
7 Starbucks?

8 A. Other than the mental stress, no.  
9 Mental duress.

10 Q. Okay. Did you ever speak to a lawyer  
11 by the name of David Gottlieb?

12 A. Yes.

13 Q. And when did you speak to him?

14 A. I spoke to David -- I think I met  
15 David in April of 2019, or March. April --

16 Q. Did you retain him?

17 A. -- or March.

18 Q. Did you retain him?

19 A. I believe we retained his law firm,  
20 Wigdor & Associates.

21 Q. All right. And did you meet with  
22 Doug Wigdor?

23 A. Yes.

24 Q. And did you retain Mr. Wigdor?

25 A. At one point we did, yes.

1 PAUL D'AURIA

2 Q. And prior to retaining either  
3 Mr. Gottlieb or Mr. Wigdor, did you have any  
4 discussions with them about your work at  
5 Starbucks?

6 A. Other than the facts of this case.

7 Q. I'm sorry, other than the fact what?

8 A. Other than the facts of the case, I  
9 think we discussed the case with Mr. Wigdor and  
10 Mr. Gottlieb.

11 Q. Before you retained them?

12 A. I believe so, yes.

13 Q. I think you said you got engaged  
14 about 18 months ago. Is that right?

15 A. Give or take. I mean, we knew we  
16 were going to get married. It was --

17 Q. And you got married; right?

18 A. Yes, correct.

19 Q. And when did you get married?

20 A. May of 2019.

21 Q. Okay. So you met a couple years  
22 before that; is that right?

23 A. Correct.

24 Q. And how did you meet your wife?

25 A. We actually met online on Instagram.

1 PAUL D'AURIA

2 Q. Congratulations.

3 A. Thank you.

4 MR. WEBER: Take a five-minute  
5 break.

6 (Recess taken.)

7 BY MR. WEBER:

8 Q. You just mentioned some of the  
9 effects of working at Starbucks. Since you  
10 left Starbucks, do you no longer have those  
11 conditions or feelings?

12 THE WITNESS: You're breaking up a  
13 little bit. It sounds like --

14 MR. WEBER: Okay. Let me -- is  
15 that any better?

16 THE WITNESS: Could be my phone.

17 MR. WEBER: Okay, let me ask you  
18 again.

19 Q. You just testified about the  
20 conditions you experienced while working at  
21 Starbucks. Since you left Starbucks, do you no  
22 longer experience those feelings or conditions?

23 A. I'm still very wary of chemicals, of  
24 any chemicals in general. I have the  
25 rhinosinusitis, which is always bothering me.

1 PAUL D'AURIA

2 It bothers my throat. As far as mental stress,  
3 if I think about Starbucks, I'm in distress.

4 Q. Does your lymphoma cause you any  
5 stress?

6 A. Yeah. It's the kind of lymphoma that  
7 can recur. More than 50 percent of the time it  
8 comes back, so that's always a worry, that it  
9 could come back.

10 Q. Right now, it's in remission?

11 A. Yes, it's -- I have been in remission  
12 since 2017.

13 Q. Okay, great. Did you say that your  
14 lymphoma was caused by the 9/11 exposure? I  
15 think you said that.

16 A. Yeah. When I went to -- and had the  
17 exam, they certified me for my lymphoma and my  
18 rhinosinusitis.

19 MR. WEBER: Got it. Okay,  
20 hopefully Rebecca will get on shortly  
21 and we'll finish up.

22 MS. GOLDSTEIN: I'm on the phone,  
23 I'm just having technical difficulties  
24 downloading. Hopefully I'll be on in a  
25 minute.

1 PAUL D'AURIA

2 THE WITNESS: I'm going to call  
3 back in since you're still breaking up.  
4 I don't know if it's my phone or the  
5 connection.

6 MR. WEBER: I hear you fine.  
7 (Off the record to resolve a technical  
8 issue.)

9 BY MR. WEBER:

10 Q. You said you worked at Starbucks and  
11 Le Pain Quotidien, where there were pest  
12 strips. Have you ever been in any other  
13 restaurant or store that had pest strips in it?

14 A. Not when I was working, no.

15 Q. What about when you were not working?

16 A. I once went into a pizzeria or a  
17 cafe, and there was one hanging up in the food  
18 area right above where everybody was standing,  
19 eating.

20 Q. What did you do when you saw it?

21 A. Took a photo of it and reported it.

22 Q. I'm sorry, took a photo and then  
23 what?

24 A. Took a photo and reported it to the  
25 Department of Health.



1 PAUL D'AURIA

2 Q. Who did you report it to?

3 A. Department of Health.

4 Q. During the period 2007 to 2018,  
5 during the periods of time you worked for AVP,  
6 did you ever look for any other employment?

7 A. In 2009, after we -- Starbucks  
8 terminated our contract in 2009, I did get  
9 another job, and I worked for a company in  
10 Manhattan. And I worked there for several  
11 years.

12 Q. What company?

13 A. AKA Pest Control.

14 Q. Okay. And how long did you work  
15 there?

16 A. I worked there from 2009.  
17 November 2009 until, I think, February of 2013.

18 Q. And what did you do there?

19 A. Basically the same thing. I did pest  
20 control. I serviced all commercial accounts.

21 Q. And what was your compensation there?

22 A. Oh, I worked there, I was making  
23 about -- I think when I left there I was making  
24 about 875 a week.

25 Q. I'm sorry, I didn't hear you.

1 PAUL D'AURIA

2 A. I was making about \$875 a week.

3 Q. Okay. And why did you leave?

4 A. I was already doing work with AVP  
5 servicing the Le Pain location, so I was doing  
6 both jobs. And then Starbucks was basically  
7 asking AVP if they would service them again, so  
8 Ms. Shwiner asked me if I would come back full  
9 time to service Le Pain and Starbucks. So I  
10 left the other company and went back to AVP.

11 Q. And you were making less money at AVP  
12 when you went back; correct?

13 A. No, I -- they paid me more money to  
14 come back.

15 Q. Did your compensation decrease while  
16 working at AVP?

17 A. No. I made more money working for  
18 AVP.

19 Q. And what were you making in AVP in  
20 2017 and 2018?

21 A. I was making about a thousand dollars  
22 a week.

23 Q. Okay. And during the period of time  
24 2013 to 2018, did you look for any other  
25 employment?